

1 James J. Arendt, Esq. Bar No. 142937  
Roy C. Santos, Esq. Bar No. 259718

2 WEAKLEY & ARENDT, LLP  
3 1630 East Shaw Avenue, Suite 176  
4 Fresno, California 93710  
5 Telephone: (559) 221-5256  
6 Facsimile: (559) 221-5262

7 Attorneys for Defendants, COUNTY OF FRESNO, DAVID ALANIS, and LINDA PENNER

8 **IN THE UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**

|    |                                       |   |  |
|----|---------------------------------------|---|--|
| 11 | JAMES LORAN QUINN,                    | ) | CASE NO.: 1:10-CV-01617-OWW-SMS          |
| 12 | Plaintiff,                            | ) |  |
| 13 | vs.                                   | ) | <b>ORDER ON DEFENDANTS' MOTION TO</b>    |
| 14 | FRESNO COUNTY SHERIFF, FRESNO         | ) | <b>DISMISS PLAINTIFF'S THIRD AMENDED</b> |
| 15 | COUNTY PROBATION DEPARTMENT,          | ) | <b>COMPLAINT</b>                         |
| 16 | OFFICER DAVID ALANIS, OFFICER         | ) | Date: May 2, 2011                        |
| 17 | LEONARD RICHERT, FRESNO COUNTY        | ) | Time: 10:00 a.m.                         |
| 18 | DISTRICT ATTORNEY, FRESNO             | ) | Ctrm: 3                                  |
| 19 | COUNTY JAIL, ET AL. and DOES 1 to 100 | ) | The Honorable Oliver W. Wanger           |
| 20 | INCLUSIVE,                            | ) |  |
| 21 | Defendants.                           | ) |  |

22 On May 2, 2011, the matter of Defendants' motions to dismiss Plaintiff's third amended  
23 complaint came before the Court for hearing. Attorney Roy C. Santos appeared on behalf of the moving  
24 parties. Attorney David M. Hollingsworth appeared via telephone on behalf of the plaintiff. After  
25 considering the pleadings and documents filed with the Court, and receiving oral argument from counsel,  
26 the Court previously ruled as follows:

- 27 1. Plaintiff's medical care claim under section 1983 against Defendant ALANIS is
- 28 DISMISSED, without prejudice;
2. Plaintiff's first cause of action is DISMISSED, with prejudice;
3. Plaintiff's second cause of action is DISMISSED, with prejudice;

Order On Defendants' Motion to Dismiss Plaintiff's TAC

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- 4. Plaintiff's third cause of action is DISMISSED, without prejudice;
- 5. Plaintiff shall file an amended complaint within fourteen (14) days of service of the Memorandum Decision; and,
- 6. Defendants shall file a response within ten (10) days of service of the amended complaint.

On May 20, 2011, Plaintiff failed to timely file an amended complaint within 14 days of service of the Memorandum Decision, and as such, the Court hereby rules as follows:

- 1. Plaintiff's third cause of action is DISMISSED, **with** prejudice.

**IT IS SO ORDERED.**

DATED: June 1, 2011

/s/ OLIVER W. WANGER  
United States District Court Judge