

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

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

TYE MATTHEWS,

Plaintiff,

v.

H. HOLGUIN, et al.,

Defendants.

CASE NO. 1:10-cv-01806-BAM PC

ORDER DISMISSING ACTION, WITH  
PREJUDICE, FOR FAILURE TO STATE A  
CLAIM

ORDER THAT DISMISSAL IS SUBJECT TO 28  
U.S.C. § 1915(G)

Plaintiff Tye Matthews (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action was filed on September 30, 2010. An order was issued on December 1, 2011, dismissing the complaint, with leave to file an amended complaint within thirty days. 28 U.S.C. § 1915A; 28 U.S.C. § 1915(e). Plaintiff was warned that if he failed to file an amended complaint in compliance with the order, this action would be dismissed, with prejudice, for failure to state any claims.

More than thirty days have passed and Plaintiff has not complied with or otherwise responded to the Court’s order. As a result, there is no pleading on file which sets forth any claims upon which relief may be granted.

Accordingly, pursuant to 28 U.S.C. § 1915A and 28 U.S.C. § 1915(e), this action is **HEREBY DISMISSED**, with prejudice, based on Plaintiff’s failure to state a claim upon which relief

///  
///  
///

1 may be granted under section 1983 and the Clerk's Office shall enter judgment. This dismissal is  
2 subject to the "three-strikes" provision set forth in 28 U.S.C. § 1915(g). Silva v. Vittorio, No. 08-  
3 15620, 2011 WL 4436248, at \*4 (9th Cir. Sept. 26, 2011).

4 IT IS SO ORDERED.

5 **Dated: January 19, 2012**

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE

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