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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 TIMOTHY JOHNSON,

12 Plaintiff,

13 vs.

14 HICKS, et al.,

15 Defendants.
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1:11-cv-02162-GSA-PC

ORDER DISMISSING CASE, WITH
PREJUDICE, FOR FAILURE TO
STATE A CLAIM UPON WHICH
RELIEF MAY BE GRANTED
(Doc. 12.)

ORDER THAT THIS DISMISSAL IS
SUBJECT TO THE "THREE-
STRIKES" PROVISION SET FORTH
IN 28 U.S.C. § 1915(g)

ORDER FOR CLERK TO CLOSE
CASE

21 Timothy Johnson ("Plaintiff") is a state prisoner proceeding pro se and in forma
22 pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint
23 commencing this action on December 30, 2011. (Doc. 1.) On January 18, 2012, Plaintiff
24 consented to Magistrate Judge jurisdiction pursuant 28 U.S.C. § 636(c), and no other parties
25 have made an appearance. (Doc. 7.) Therefore, pursuant to Appendix A(k)(4) of the Local
26 Rules of the Eastern District of California, the undersigned shall conduct any and all
27 proceedings in the case until such time as reassignment to a District Judge is required. Local
28 Rule Appendix A(k)(3).

1 On April 17, 2014, the Court dismissed Plaintiff's First Amended Complaint for failure
2 to state a claim, with leave to file a Second Amended Complaint within thirty days. (Doc. 16.)
3 Plaintiff requested and was granted an extension of time until July 17, 2014 to file the Second
4 Amended Complaint. (Doc. 18.) To date, Plaintiff has not filed a Second Amended Complaint
5 or otherwise responded to the Court's order. As a result, there is no pleading on file which sets
6 forth any claims upon which relief may be granted.

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. Pursuant to 28 U.S.C. § 1915A and 28 U.S.C. § 1915(e), this action is
9 DISMISSED, with prejudice, based on Plaintiff's failure to state a claim upon
10 which relief may be granted under section 1983;
- 11 2. This dismissal is subject to the "three-strikes" provision set forth in 28 U.S.C. §
12 1915(g). Silva v. Vittorio, 658 F.3d 1090, 1098 (9th Cir. 2011); and
- 13 3. The Clerk of Court is directed to close this case.

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15 IT IS SO ORDERED.

16 Dated: July 31, 2014

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE