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4 UNITED STATES DISTRICT COURT  
5 EASTERN DISTRICT OF CALIFORNIA  
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10 FRED GOMEZ,  
11 Plaintiff,  
12  
13 vs.  
14 M. WEST, ET AL.,  
15 Defendant

Case No.1:13 cv 01126 GSA PC

ORDER DISMISSING ACTION

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17 Plaintiff is a state prisoner proceeding pro se. Plaintiff seeks relief pursuant to 42 U.S.C.  
18 § 1983. Plaintiff has consented to magistrate judge jurisdiction pursuant to 28 U.S.C. §  
19 636(c)(1).

20 By order filed December 11, 2013, the operative complaint was dismissed for failure to  
21 state a claim. Plaintiff was granted leave to file an amended complaint, and directed to do so  
22 within thirty days. Plaintiff has not filed an amended complaint.

23 In the December 11, 2013, order the Court informed Plaintiff of the deficiencies in his  
24 complaint, and dismissed the complaint on the ground that Plaintiff had failed to state a claim  
25 upon which relief could be granted. Because Plaintiff has not filed an amended complaint, the  
26 Court dismisses the claims made in the original complaint with prejudice for failure to state a  
27 federal claim upon which the court could grant relief. See Noll v. Carlson, 809 F. 2d 1446, 1448

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(9<sup>th</sup> Cir. 1987) (prisoner must be given notice of deficiencies and opportunity to amend prior to dismissing for failure to state a claim).

Accordingly, IT IS HEREBY ORDERED that this action is dismissed for failure to state a claim upon which relief can be granted. The Clerk is directed to close this case.

IT IS SO ORDERED.

Dated: January 20, 2015

/s/ Gary S. Austin

UNITED STATES MAGISTRATE JUDGE