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7 **UNITED STATES DISTRICT COURT**
8 **EASTERN DISTRICT OF CALIFORNIA**
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10 VICTOR GONZALEZ LAMA, Case No. 1:13-cv-01230-AWI-SKO (PC)
11 Plaintiff, ORDER DISMISSING ACTION, WITH
12 v. PREJUDICE, FOR FAILURE TO STATE
A CLAIM UPON WHICH RELIEF MAY
BE GRANTED
13 MARK. N. PAZIN, et al., (Docs. 10 and 11)
14 Defendants. ORDER THAT DISMISSAL IS SUBJECT
15 TO 28 U.S.C. § 1915(G)
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17 Plaintiff Victor Gonzalez Lama (“Plaintiff”), a federal prisoner proceeding pro se and in
18 forma pauperis, filed this civil action on July 19, 2013. Plaintiff, whose address of record is Giles
19 W. Dalby Correctional Facility in Post, Texas, originally filed suit for negligence under California
20 law. 28 U.S.C. § 1332(a). The Court dismissed Plaintiff’s complaint, with leave to amend, for
21 lack of subject matter jurisdiction and failure to state a claim. Plaintiff filed an amended
22 complaint on June 6, 2014, realleging his negligence claim and alleging an additional claim for
23 violation of the Eighth Amendment of the United States Constitution. 42 U.S.C. § 1983; 28
24 U.S.C. § 1331.

25 On March 2, 2015, the Court dismissed Plaintiff’s amended complaint for failure to state a
26 claim and ordered Plaintiff to file a second amended complaint within thirty days. 28 U.S.C. §
27 1915A; 28 U.S.C. § 1915(e). More than thirty days have passed and Plaintiff has not complied
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1 with or otherwise responded to the Court's order.¹ As a result, there is no pleading on file which
2 sets forth any claims upon which relief may be granted.

3 Accordingly, pursuant to 28 U.S.C. § 1915A and 28 U.S.C. § 1915(e), this action is
4 HEREBY DISMISSED, with prejudice, based on Plaintiff's failure to state a claim upon which
5 relief may be granted. This dismissal is subject to the "three-strikes" provision set forth in 28
6 U.S.C. § 1915(g). *Silva v. Di Vittorio*, 658 F.3d 1090, 1098-99 (9th Cir. 2011).

7 IT IS SO ORDERED.
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9 Dated: April 9, 2015



Sh. Blum
SENIOR DISTRICT JUDGE

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¹ **Error! Main Document Only.** On March 20, 2015, the United States Postal Service returned the order as undeliverable. A notation on the envelope indicates that Plaintiff was released from custody. However, Plaintiff has not notified the Court of any change in his address. Absent such notice, service at a party's prior address is fully effective. Local Rule 182(f).