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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 JASON PATTEN,

12 Plaintiff,

13 vs.

14 R. ATIENZA, et al.,

15 Defendants.  
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1:13-cv-01289-EPG-PC

ORDER DISMISSING CASE, WITH  
PREJUDICE, FOR FAILURE TO  
STATE A CLAIM  
(ECF No. 1.)

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

ORDER FOR CLERK TO CLOSE  
CASE

23 **I. BACKGROUND**

24 Jason Patten ("Plaintiff") is a former state prisoner proceeding *pro se* in this civil rights  
25 action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on  
26 August 15, 2013. (ECF No. 1.) On September 3, 2013, Plaintiff consented to Magistrate Judge  
27 jurisdiction in this action under 28 U.S.C. § 636(c), and no other parties have made an  
28 appearance. (ECF No. 5.) Therefore, pursuant to Appendix A(k)(4) of the Local Rules of the

1 Eastern District of California, the undersigned shall conduct any and all proceedings in the case  
2 until such time as reassignment to a District Judge is required. Local Rule Appendix A(k)(3).

3 On January 21, 2015, the court screened Plaintiff's Complaint under 28 U.S.C. §1915A  
4 and entered an order dismissing the Complaint for failure to state a claim, with leave to amend  
5 within thirty days. (ECF No. 6.) On February 24, 2015, the court dismissed this case and  
6 entered judgment, based on Plaintiff's failure to comply with the thirty-day deadline in the  
7 court's order. (ECF Nos. 14, 15.) On August 24, 2015, Plaintiff filed a notice of change of  
8 address and a motion for clarification of the status of his case. (ECF No. 16.) It was  
9 discovered that Plaintiff's earlier change of address had not been properly reflected on the  
10 Court's docket, causing Plaintiff's court mail to be sent to the wrong address. Based on this  
11 finding, the Court reopened Plaintiff's case on October 2, 2015, served Plaintiff with a copy of  
12 the January 21, 2015 order, and granted Plaintiff thirty days in which to file an amended  
13 complaint. (ECF No. 17.)

14 More than forty-five days have passed, and Plaintiff has not complied with or otherwise  
15 responded to the Court's October 2, 2015 order. As a result, there is no pleading on file which  
16 sets forth any claims upon which relief may be granted. In the January 21, 2015 order, the  
17 Court informed Plaintiff of the deficiencies in his Complaint, and dismissed the Complaint on  
18 the ground that Plaintiff had failed to state a claim upon which relief could be granted.

19 Because Plaintiff has not filed an amended complaint, the Court dismisses the claims  
20 made in the original complaint with prejudice for failure to state a claim upon which the Court  
21 could grant relief. See Noll v. Carlson, 809 F.2d 1446, 1448 (9th Cir. 1987) (prisoner must be  
22 given notice of deficiencies and opportunity to amend prior to dismissing for failure to state a  
23 claim).

24 Accordingly, IT IS HEREBY ORDERED that:

25 1. Pursuant to 28 U.S.C. § 1915A and 28 U.S.C. § 1915(e), this action is  
26 DISMISSED, with prejudice, based on Plaintiff's failure to state a claim upon which relief may  
27 be granted under § 1983;

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