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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

GEORGE GARCIA,
Plaintiff,
v.
G. MARTINEZ, et al.,
Defendants.

1:13-cv-01389-LJO-JLT (PC)
FINDINGS AND RECOMMENDATIONS OF
DISMISSAL OF ACTION, WITH PREJUDICE,
FOR FAILURE TO STATE A CLAIM UPON
WHICH RELIEF MAY BE GRANTED AND
TO COUNT AS A STRIKE UNDER 28 U.S.C. §
1915(g)
(Docs. 4, 6, 10)
15-DAY DEADLINE

Plaintiff, George Garcia, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on August 30, 2013. On September 4, 2013, the undersigned dismissed Plaintiff's Complaint for failure to state a claim upon which relief may be granted and ordered Plaintiff to file an amended complaint within 21 days. 28 U.S.C. § 1915A; 28 U.S.C. § 1915(e). Plaintiff requested and received an extension of time to file an amended complaint. To date, 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 under section 1983.

Accordingly, pursuant to 28 U.S.C. § 1915A and 28 U.S.C. § 1915(e), the undersigned **HEREBY RECOMMENDS** that this action be dismissed, with prejudice, based on Plaintiff's

1 failure to state any claims upon which relief may be granted under section 1983. It is further
2 recommended that dismissal of this action count as a strike under 28 U.S.C. § 1915(g).

3 These Findings and Recommendations will be submitted to the United States District
4 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within 15
5 days after being served with these Findings and Recommendations, Plaintiff may file written
6 objections with the Court. The document should be captioned "Objections to Magistrate Judge's
7 Findings and Recommendations." Plaintiff is advised that failure to file objections within the
8 specified time may waive the right to appeal the District Court's order. *Martinez v. Ylst*, 951 F.2d
9 1153 (9th Cir. 1991).

10 IT IS SO ORDERED.

11 Dated: December 30, 2013

/s/ Jennifer L. Thurston
12 UNITED STATES MAGISTRATE JUDGE