

1
2 **UNITED STATES DISTRICT COURT**

3 EASTERN DISTRICT OF CALIFORNIA

4 NICHOLAS E. BUSKIRK,

Case No. 1:14-cv-01249-AWI-SKO (PC)

5 Plaintiff,

ORDER DISMISSING ACTION, WITH
PREJUDICE, FOR FAILURE TO STATE
A CLAIM UPON WHICH RELIEF MAY
BE GRANTED UNDER SECTION 1983

6 v.

7 CALIFORNIA DEPT. OF CORRECTIONS
8 & REHABILITATION, et al.,

(Docs. 1 and 7)

9 Defendants.

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

10 _____ /
11
12 Plaintiff Nicholas E. Buskirk, a state prisoner proceeding pro se and in forma pauperis,
13 filed this civil rights action pursuant to 42 U.S.C. § 1983 on August 8, 2014. On March 16, 2015,
14 the Court dismissed Plaintiff's complaint for failure to state a claim under section 1983 and
15 ordered Plaintiff to file an amended complaint within thirty days. 28 U.S.C. § 1915A; 28 U.S.C. §
16 1915(e). More than thirty days have passed and Plaintiff has not complied with or otherwise
17 responded to the Court's order.¹ As a result, there is no pleading on file which sets forth any
18 claims upon which relief may be granted.

19 Accordingly, pursuant to 28 U.S.C. § 1915A and 28 U.S.C. § 1915(e), this action is
20 HEREBY DISMISSED, with prejudice, based on Plaintiff's failure to state a claim upon which
21 relief may be granted under section 1983. This dismissal is subject to the "three-strikes" provision
22 set forth in 28 U.S.C. § 1915(g). *Silva v. Di Vittorio*, 658 F.3d 1090, 1098-99 (9th Cir. 2011).

23 IT IS SO ORDERED.

24 Dated: May 11, 2015

25 
26 _____
27 SENIOR DISTRICT JUDGE

28 ¹ On April 6, 2015, the United States Postal Service returned the order as undeliverable. A notation on the envelope indicated that Plaintiff was discharged from prison. 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).