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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 PABLO A. MEDINA,

12 Plaintiff,

13 vs.

14 J. LOPEZ, et al.,

15 Defendants.  
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1:14-cv-01850-GSA-PC

ORDER DISMISSING CASE, WITH  
PREJUDICE, FOR FAILURE TO  
STATE A CLAIM UPON WHICH  
RELIEF MAY BE GRANTED  
(Doc. 12.)

ORDER THAT THIS DISMISSAL IS  
SUBJECT TO THE "THREE-  
STRIKES" PROVISION SET FORTH  
IN 28 U.S.C. § 1915(g)

ORDER FOR CLERK TO CLOSE  
CASE

22 Pablo A. Medina ("Plaintiff") is a state prisoner proceeding pro se and in forma  
23 pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. On November 3, 2014,  
24 Plaintiff and nineteen co-plaintiffs filed case 2:14-cv-2566-DAD-PC, Hicks v. Lopez, at the  
25 Sacramento Division of the U.S. District Court for the Eastern District of California. On  
26 November 12, 2014, the case was transferred to the Fresno Division of the Eastern District and  
27 opened as case 1:14-cv-01764-GSA-PC (Hicks v. Lopez). On November 24, 2014, the court  
28 issued an order severing the twenty plaintiffs' claims in case 1:14-cv-1764-GSA-PC, and the

1 present case was opened for Plaintiff, 1:14-cv-1850-GSA-PC, Medina v. Lopez. (Doc. 1.)  
2 Plaintiff now proceeds as the sole Plaintiff in the present case.

3 On December 8, 2014, Plaintiff consented to the jurisdiction of a Magistrate Judge in  
4 this action pursuant to 28 U.S.C. § 636(c), and no other parties have made an appearance.  
5 (Doc. 4.) Therefore, pursuant to Appendix A(k)(4) of the Local Rules of the Eastern District of  
6 California, the undersigned shall conduct any and all proceedings in the case until such time as  
7 reassignment to a District Judge is required. Local Rule Appendix A(k)(3). On December 12,  
8 2014, Plaintiff filed the First Amended Complaint. (Doc. 5.) On February 17, 2015, with leave  
9 of court, Plaintiff filed the Second Amended Complaint. (Doc. 12.)

10 On April 9, 2015, case 1:14-cv-1794-MJS-PC, Medina v. CDCR, was consolidated with  
11 the present case, and Plaintiff was granted leave to either file a Third Amended Complaint in  
12 the present case, or notify the court that he wishes to proceed with the Second Amended  
13 Complaint. (Doc. 15.) On April 24, 2015, Plaintiff filed a notice that he wished to proceed  
14 with the Second Amended Complaint. (Doc. 16.)

15 The court screened the Second Amended Complaint pursuant to 28 U.S.C. § 1915A and  
16 issued an order on April 28, 2015, dismissing the Second Amended Complaint for failure to  
17 state a claim, with leave to file a Third Amended Complaint within thirty days. (Doc. 17.)  
18 The thirty-day time period has now expired, and Plaintiff has not filed a Third Amended  
19 Complaint or otherwise responded to the court's order.<sup>1</sup> As a result, there is no pleading on file  
20 which sets forth any claims upon which relief may be granted.

21 Accordingly, IT IS HEREBY ORDERED that:

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

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27 <sup>1</sup> On May 18, 2015, the U.S. Postal Service returned the court's order as undeliverable, with a  
28 notation on the envelope "Return to Sender." (Court Record.) On May 19, 2015, Plaintiff filed a notice of change  
of address to 333 Linden Avenue #8, Long Beach CA 90802. (Doc. 18.) On May 21, 2015, the court re-served  
the court's order at Plaintiff's new address. (Court Record.)

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2. This dismissal is subject to the “three-strikes” provision set forth in 28 U.S.C. § 1915(g). Silva v. Vittorio, 658 F.3d 1090, 1098 (9th Cir. 2011); and

3. The Clerk of Court is directed to close this case.

IT IS SO ORDERED.

Dated: July 8, 2015

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE