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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ALEXANDER GRIER,

Plaintiff,

vs.

MATTHEW CATE, et al.,

Defendants.

1:16-cv-00656-GSA-PC

ORDER DISMISSING CASE, WITH
PREJUDICE, FOR FAILURE TO STATE A
CLAIM UPON WHICH RELIEF MAY BE
GRANTED
(ECF No. 1.)

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

ORDER FOR CLERK TO CLOSE CASE

I. BACKGROUND AND DISCUSSION

Alexander Grier ("Plaintiff") is a state prisoner proceeding pro se with this civil rights action pursuant to 42 U.S.C. § 1983. On February 26, 2016, Plaintiff filed the Complaint commencing this action at the United States District Court for the Southern District of California. (ECF No. 1.) On May 10, 2016, the case was transferred to the Eastern District of California. (ECF No. 3.)

On June 6, 2016, Plaintiff consented to Magistrate Judge jurisdiction in this action pursuant to 28 U.S.C. § 636(c), and no other parties have made an appearance. (ECF No. 7.) Therefore, pursuant to Appendix A(k)(4) of the Local Rules of the Eastern District of

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

3 The court screened Plaintiff's Complaint and issued an order on March 6, 2017,
4 dismissing the Complaint for failure to state a claim, with leave to file an amended complaint
5 within thirty days. (ECF No. 11.) The thirty-day time period has expired, and Plaintiff has not
6 filed an amended complaint or otherwise responded to the court's order. As a result, there is no
7 pleading on file which sets forth any claims upon which relief may be granted.

8 Accordingly, this case shall be DISMISSED, with prejudice, based on Plaintiff's failure
9 to state a claim upon which relief may be granted under section 1983.

10 **II. CONCLUSION**

11 Therefore, based on the foregoing, it is **HEREBY ORDERED** that:

- 12 1. This action is dismissed, with prejudice, for failure to state a claim upon which
13 relief may be granted under § 1983;
- 14 2. This dismissal is subject to the "three-strikes" provision set forth in 28 U.S.C. §
15 1915(g). Silva v. Vittorio, 658 F.3d 1090, 1098 (9th Cir. 2011); and
- 16 3. The Clerk of Court is directed to close this case.

17
18 IT IS SO ORDERED.

19 Dated: April 28, 2017

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE