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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 ERICK HUFF,

12 Plaintiff,

13 vs.

14 WARDEN SHERMAN, et al.,

15 Defendants.
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1:16-cv-01117-LJO-GSA-PC

ORDER DISMISSING CASE, WITH
PREJUDICE, FOR FAILURE TO STATE A
CLAIM
(ECF No. 15.)

ORDER FOR CLERK TO CLOSE CASE

18 **I. BACKGROUND**

19 Erick Huff (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* with
20 this civil rights action pursuant to 42 U.S.C. § 1983. On August 2, 2016, Plaintiff filed the
21 Complaint commencing this action. (ECF No. 1.)

22 On August 28, 2017, Plaintiff filed the First Amended Complaint as a matter of course.
23 (ECF No. 15.) The court screened the First Amended Complaint and issued a screening order
24 on February 12, 2018, dismissing the complaint for failure to state a claim, with leave to file a
25 Second Amended Complaint within thirty days. (ECF No. 16.) The thirty-day time period
26 expired, and Plaintiff did not file a Second Amended Complaint or otherwise responded to the
27 screening order. As a result, there was no pleading on file which set forth any claims upon
28 which relief may be granted.

1 On April 2, 2018, the court entered findings and recommendations to dismiss this case
2 for Plaintiff's failure to state a claim. (ECF No. 18.) On April 19, 2018, Plaintiff filed
3 objections to the findings and recommendations, requesting a thirty-day extension of time.
4 (ECF No. 19.) On April 23, 2018, the court issued an order vacating the findings and
5 recommendations and granting Plaintiff thirty more days to file the Second Amended
6 Complaint. (ECF No. 20.)

7 The latest thirty-day deadline to file the Second Amended Complaint has expired, and
8 Plaintiff has not filed the Second Amended Complaint or otherwise responded to the court's
9 order. As a result, there is no pleading on file which sets forth any claims upon which relief
10 may be granted.

11 Accordingly, **IT IS HEREBY ORDERED** that:

- 12 1. Pursuant to 28 U.S.C. § 1915A and 28 U.S.C. § 1915(e), this case is
13 DISMISSED, with prejudice, based on Plaintiff's failure to state a claim upon
14 which relief may be granted under § 1983;
- 15 2. This dismissal is subject to the "three strikes" provision of 28 U.S.C. § 1915(g);
16 and
- 17 3. The Clerk is directed to close this case.

18
19 IT IS SO ORDERED.

20 Dated: June 15, 2018

/s/ Lawrence J. O'Neill
UNITED STATES CHIEF DISTRICT JUDGE