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## IN THE UNITED STATES DISTRICT COURT

## FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARCUS HARRISON,

No. C 11-03186 YGR (PR)

Plaintiff,

**ORDER OF DISMISSAL**

vs.

E. SMITH, et al.,

Defendants.  

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On December 30, 2011, the Court issued an Order Granting Extension of Time to File an Amended Complaint and gave Plaintiff a deadline of January 22, 2012 to file an amended complaint providing factual and legal bases for his claims. Plaintiff was warned that a failure to timely file an amended complaint would result in dismissal for failure to prosecute. The time for Plaintiff to file his amended complaint has passed, and no amended complaint has been filed.

Accordingly, IT IS HEREBY ORDERED that the complaint in the above-captioned action is DISMISSED for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). The Court has rendered its final decision on this matter; therefore, this Order TERMINATES Plaintiff's case. The Clerk of the Court shall terminate all pending motions and close the file.

When and if Plaintiff is prepared to pursue his claims, he may file a new civil rights action. The limitations period to file a § 1983 action in California is two years, but it is tolled for up to two years during a continuous period of incarceration. *See Silva v. Crain*, 169 F.3d 608, 610 (9th Cir. 1999) (holding, pursuant to Cal. Civ. Proc. Code § 340(3), that the limitations period for filing a § 1983 action in California is one year); S.B. 688 (amending Cal. Civ. Proc. Code § 340(3) and adding § 335.1 to establish two-year residual limitations period for personal injury actions); Cal. Civ. Proc. Code § 352.1(a) (providing for an additional two years of tolling during a period of continual imprisonment).

IT IS SO ORDERED.

DATED: January 27, 2012  
YVONNE GONZALEZ ROGERS  
UNITED STATES DISTRICT COURT JUDGE