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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 JOSUE ISREAL SANCHEZ,
12 CDCR #BC-0031,

Plaintiff,

13 vs.
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15 GEORGE BAILEY JAIL,

Defendant.
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Case No.: 24cv0134-AJB (LR)

**ORDER DISMISSING ACTION
WITHOUT PREJUDICE**

18 On January 16, 2024, Plaintiff Josue Israel Sanchez, a state prisoner incarcerated at
19 Corcoran State Prison in Corcoran, California, filed this civil rights action pursuant to 42
20 U.S.C. § 1983 accompanied by a Motion to proceed In Forma Pauperis (“IFP”). (ECF Nos.
21 1-2.) Plaintiff claimed his due process rights were violated when his legal materials were
22 destroyed during a transfer to the George Bailey Jail in San Diego, California. (ECF No.
23 1 at 3.)


24 On February 14, 2024, the Court granted Plaintiff leave to proceed IFP and
25 dismissed the Complaint without prejudice for failure to state a claim upon which relief
26 may be granted pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A(b). (ECF No. 3.) The
27 Court found the Complaint failed to state a federal due process claim because Plaintiff had
28 an adequate state post-deprivation remedy for the loss of property, failed to state an access

1 to courts claim because it failed to allege an actual injury arising from the loss of legal
2 materials, and failed to name a proper Defendant. (*Id.* at 4-6.) Plaintiff was granted leave
3 to amend on or before April 1, 2024, and specifically instructed that if he failed to file an
4 Amended Complaint within the time provided the Court will enter a final Order dismissing
5 this civil action based both on Plaintiff’s failure to state a claim upon which relief can be
6 granted pursuant to 28 U.S.C. § 1915A(b)(1), and his failure to prosecute in compliance
7 with a court order requiring amendment. (*Id.* at 7-8, citing *Lira v. Herrera*, 427 F.3d 1164,
8 1169 (9th Cir. 2005) (“If a plaintiff does not take advantage of the opportunity to fix his
9 complaint, a district court may convert the dismissal of the complaint into dismissal of the
10 entire action.”) On March 20, 2024, the Court extended the time to amend on Plaintiff’s
11 motion until May 1, 2024. (ECF No. 5.) To date, Plaintiff has not filed an Amended
12 Complaint.

13 Accordingly, the Court **DISMISSES** this action without prejudice. The Clerk of
14 Court shall enter judgment accordingly.

15 **IT IS SO ORDERED.**

16 Dated: June 5, 2024

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18 Hon. Anthony J. Battaglia
19 United States District Judge
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