

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

|                                |   |                                |
|--------------------------------|---|--------------------------------|
| <b>YAPHET CASTILE,</b>         | ) |                                |
| <b># B 30583,</b>              | ) |                                |
|                                | ) |                                |
| <b>Plaintiff,</b>              | ) |                                |
|                                | ) |                                |
| <b>vs.</b>                     | ) | <b>Case No. 16-cv-0444-NJR</b> |
|                                | ) |                                |
| <b>KIMBERLY BUTLER, et al.</b> | ) |                                |
|                                | ) |                                |
| <b>Defendants.</b>             | ) |                                |

**MEMORANDUM AND ORDER**

**ROSENSTENGEL, District Judge:**

On April 22, 2016, Plaintiff filed a complaint (Doc. 1) pursuant to 42 U.S.C. § 1983. In the complaint, Plaintiff sued various defendants for excessive force due to an assault he allegedly suffered at the hands of another inmate and staff. (Doc. 1). The complaint did not survive threshold review under 28 U.S.C. § 1915A because Plaintiff’s request for relief stated that “I want my tooth back and the blood put back in my body that I lost,” and the Court interpreted that as a facetious statement. (Doc. 6). Accordingly, the Court struck the complaint on May 13, 2016; the order specifically directed Plaintiff to file an amended complaint no later than June 3, 2016. (*see* Doc. 6). The deadline has now passed. Plaintiff has not filed an amended complaint. He also has failed to request an extension of the deadline for doing so.

As a result, this case is **DISMISSED with prejudice** for failure to state a claim upon which relief may be granted and for failure to comply with an order of this Court. FED. R. CIV. P. 41(b); *see generally* *Ladien v. Astrachan*, 128 F.3d 1051 (7th Cir. 1997); *Johnson v. Kamminga*, 34 F.3d 466 (7th Cir. 1994). This dismissal shall count as one of Plaintiff’s three allotted “strikes” within the meaning of 28 U.S.C. § 1915(g).

If Plaintiff wishes to appeal this Order, he may file a notice of appeal with this Court within thirty days of the entry of judgment. FED. R. APP. 4(A)(4). If Plaintiff does choose to appeal, he will be liable for the \$505.00 appellate filing fee irrespective of the outcome of the appeal. *See* FED. R. APP. 3(e); 28 U.S.C. § 1915(e)(2); *Ammons v. Gerlinger*, 547 F.3d 724, 725-26 (7th Cir. 2008); *Sloan v. Lesza*, 181 F.3d 857, 858-59 (7th Cir. 1999); *Lucien v. Jockish*, 133 F.3d 464, 467 (7th Cir. 1998). If the appeal is found to be non-meritorious, Plaintiff may also incur another “strike.” A timely motion filed pursuant to Federal Rule of Civil Procedure 59(e) may toll the 30-day appeal deadline.<sup>1</sup> FED. R. APP. 4(a)(4).

The Clerk’s Office is **DIRECTED** to close this case and enter judgment accordingly.

**IT IS SO ORDERED.**

**DATED: June 20, 2016**



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**NANCY J. ROSENSTENGEL**  
**United States District Judge**

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<sup>1</sup> A Rule 59(e) motion to alter or amend a judgment must be filed no later than 28 days after the entry of the judgment. FED. R. CIV. P. 59(e).