

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**DAVID ISAAC GARCIA,**

**Plaintiff,**

v.

**No. 16-cv-1407 WJ/SMV**

**JASON GARCIA, FNU CHAVIRA,  
FNU ALIMON, JOHN DOE,**

**Defendants.**

**ORDER STRIKING POST-DISMISSAL FILINGS**

THIS MATTER is before the Court on the December 18, 2019 letter to the Court from Plaintiff, David Isaac Garcia [Doc. 20]. The Court will strike Plaintiff Garcia's post-dismissal filings and will direct Plaintiff Garcia that in order to open a new case, he must file *a new complaint*.

This case was dismissed without prejudice by the District Judge on June 15, 2017. [Doc. 13]. The dismissal Order constituted a final order of dismissal of all claims and had the effect of closing the case. *See Fed. R. Civ. P. 41(b)*. The Court's June 15, 2017 Order was without prejudice, meaning that Plaintiff was permitted to refile his claims. However, in order to refile his claims, Plaintiff must open a new case by filing *a new complaint*. *Fed. R. Civ. P. 3*.

Plaintiff has not submitted a new complaint to the Court, and his post-dismissal filings in this case are of no effect because the case is closed. Therefore, the Court will strike his post-dismissal filings [Docs. 15, 16, 17, 18, 19, 20]. If Plaintiff wishes to proceed forward on any claim, he must *submit a new complaint* in proper form under 42 U.S.C. § 1983 and either pay the

filings fee or submit an application to proceed without prepayment of fees or costs under 28 U.S.C. § 1915.

**IT IS ORDERED that:**

- (1) Plaintiff's post-dismissal filings in this case [Doc. 15, 16, 17, 18, and 19] be **STRUCK**;
- (2) If Plaintiff wishes to proceed on civil rights claims, he must submit a new complaint in proper form under 42 U.S.C. § 1983, and pay the filing fee or submit an application to proceed without prepayment of fees or costs under 28 U.S.C. § 1915; and
- (3) The Clerk of the Court send Plaintiff a form civil rights complaint under 42 U.S.C. § 1983 and a long form application to proceed without prepayment of fees or costs under 28 U.S.C. § 1915.

**IT IS SO ORDERED.**



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**STEPHAN M. VIDMAR**  
United States Magistrate Judge