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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

BENNIE R. WILSON,
Plaintiff,

No. CIV S-09-2667-MCE-CMK-P

vs.

FINDINGS AND RECOMMENDATIONS

KATHLEEN DICKINSON, et al.,
Defendants.

_____ /

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff’s amended complaint (Doc. 4).

Plaintiff’s factual allegations are set forth in the accompanying order and will not be repeated here. As to defendant Dickinson, who is the prison warden, plaintiff alleges that he informed her of alleged constitutional violations via the prison grievance process but that Dickinson failed to correct the problem. Supervisory personnel are generally not liable under § 1983 for the actions of their employees. See Taylor v. List, 880 F.2d 1040, 1045 (9th Cir. 1989) (holding that there is no respondeat superior liability under § 1983). A supervisor is only liable for the constitutional violations of subordinates if the supervisor participated in or directed the violations. See id. The Supreme Court has rejected the notion that a supervisory defendant can be liable based on knowledge and acquiescence in a subordinate’s unconstitutional conduct because government officials, regardless of their title, can only be held liable under § 1983 for his or her own conduct and not the conduct of others. See Ashcroft v. Iqbal, 129 S.Ct. 1937,

1 1949 (2009). When a defendant holds a supervisory position, the causal link between such
2 defendant and the claimed constitutional violation must be specifically alleged. See Fayle v.
3 Stapley, 607 F.2d 858, 862 (9th Cir. 1979); Mosher v. Saalfeld, 589 F.2d 438, 441 (9th Cir.
4 1978). Vague and conclusory allegations concerning the involvement of supervisory personnel
5 in civil rights violations are not sufficient. See Ivey v. Board of Regents, 673 F.2d 266, 268 (9th
6 Cir. 1982). “[A] plaintiff must plead that each Government-official defendant, through the
7 official’s own individual actions, has violated the constitution.” Iqbal, 129 S.Ct. at 1948.

8 Because plaintiff’s claim against Dickinson is based on knowledge and
9 acquiescence and not on actual personal participation in a constitutional violation, he cannot state
10 a claim against Dickinson, who should be dismissed with prejudice. See Lopez v. Smith, 203
11 F.3d 1122, 1126, 1131 (9th Cir. 2000) (en banc).

12 Based on the foregoing, the undersigned recommends that Dickinson be dismissed
13 as a defendant to this action, which should proceed against defendant Mercado only.

14 These findings and recommendations are submitted to the United States District
15 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 20 days
16 after being served with these findings and recommendations, any party may file written
17 objections with the court. The document should be captioned “Objections to Magistrate Judge’s
18 Findings and Recommendations.” Failure to file objections within the specified time may waive
19 the right to appeal. See Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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21 DATED: May 6, 2010

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23 **CRAIG M. KELLISON**
24 UNITED STATES MAGISTRATE JUDGE
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