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4 UNITED STATES DISTRICT COURT  
5 NORTHERN DISTRICT OF CALIFORNIA  
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7 SYLVESTER BRADFORD,  
8 Plaintiff,  
9 v.  
10 MINH VOONG, et al.,  
11 Defendants.

Case No. [17-cv-04964-HSG](#)

**ORDER GRANTING REQUEST FOR  
SCREENING; DISMISSING CERTAIN  
CLAIMS WITH PREJUDICE;  
ORDERING DEFENDANTS TO SHOW  
CAUSE**

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13 Plaintiff, an inmate at Mule Creek State Prison, has filed a pro se civil rights action. This  
14 action was removed to federal court, Dkt. No. 1, and the Court found that the complaint alleged  
15 federal law claims, Dkt. No. 17. The Court now reviews the complaint pursuant to 28 U.S.C. §  
16 1915A.<sup>1</sup>

17 **DISCUSSION**

18 **A. Standard of Review**

19 A federal court must conduct a preliminary screening in any case in which a prisoner seeks  
20 redress from a governmental entity or officer or employee of a governmental entity. See 28 U.S.C.  
21 § 1915A(a). In its review, the court must identify any cognizable claims and dismiss any claims  
22 that are frivolous, malicious, fail to state a claim upon which relief may be granted or seek  
23 monetary relief from a defendant who is immune from such relief. See 28 U.S.C. § 1915A(b)(1),  
24 (2). Pro se pleadings must, however, be liberally construed. See *Balistreri v. Pacifica Police*  
25 *Dep't*, 901 F.2d 696, 699 (9th Cir. 1988).

26 Federal Rule of Civil Procedure 8(a)(2) requires only “a short and plain statement of the  
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28 <sup>1</sup> The Court GRANTS Defendants’ request that the Court screen Plaintiff’s complaint. Dkt. No. 22.

1 claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). “Specific facts are not  
2 necessary; the statement need only ““give the defendant fair notice of what the . . . claim is and the  
3 grounds upon which it rests.”” Erickson v. Pardus, 551 U.S. 89, 93 (2007) (citations omitted).  
4 Although a complaint “does not need detailed factual allegations [in order to state a claim], . . . a  
5 plaintiff’s obligation to provide the grounds of his ‘entitle[ment] to relief’ requires more than  
6 labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do. .  
7 . . Factual allegations must be enough to raise a right to relief above the speculative level.” Bell  
8 Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007) (citations omitted). A complaint must  
9 proffer “enough facts to state a claim for relief that is plausible on its face.” Id. at 570.

10 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential elements:  
11 (1) that a right secured by the Constitution or laws of the United States was violated, and (2) that  
12 the alleged violation was committed by a person acting under the color of state law. See West v.  
13 Atkins, 487 U.S. 42, 48 (1988).

14 **B. Complaint**

15 Plaintiff names as defendants Correctional Training Facility (“CTF”) correctional officers  
16 J. Barba, M. Ramirez, DN McCall, and Arnold; CTF Warden Spearman; California Department of  
17 Corrections and Rehabilitation (“CDCR”) Director Jeffrey Beard; and CDCR Office of Appeals  
18 Chief M. Voong.

19 According to the complaint, on August 21, 2015, while Plaintiff was housed at CTF,  
20 Officer Arnold searched Plaintiff’s cell. During the search, Officer Barba waited outside the cell.  
21 Officer Barba then issued a rules violation report (“RVR”) on August 25, 2015, falsely stating that  
22 he had personally discovered two bags of pulp and a large bag of inmate manufactured alcohol  
23 during the cell search, and falsely accusing Plaintiff of possessing inmate manufactured alcohol.  
24 Plaintiff was found guilty of this RVR after a hearing conducted by Lt. McCall. Plaintiff filed  
25 numerous grievances and staff complaints regarding this RVR, which were reviewed, denied,  
26 and/or cancelled by Officer Ramirez, Warden Spearman, Director Beard, and Chief Voong.  
27 Plaintiff filed grievances challenging the cancellations, and these grievances were reviewed,  
28 denied, and/or cancelled by Officer Ramirez, Warden Spearman, Director Beard, and Chief

1 Voong.

2 Plaintiff alleges sixteen causes of action. The causes of action state two federal law claims  
3 and numerous state law claims.

4 Plaintiff's first federal law claim is that Officer Barba's false accusation constituted cruel  
5 and unusual punishment in violation of the Eighth Amendment. See Dkt. No. 1-1 at 39–41 (first  
6 cause of action) and Dkt. No. 1-1 at 44–45 (third cause of action).<sup>2</sup> Officer Barba's false  
7 accusation does not implicate the Eighth Amendment's ban on cruel or unusual punishment. To  
8 qualify as a punishment subject to the Eighth Amendment, there must be a criminal penalty or  
9 punishment that attaches after a formal adjudication of guilt. See *Bell v. Wolfish*, 441 U.S. 520,  
10 537 n.16 (1979). Here, Officer Barba's false accusation and the subsequent consequences for  
11 Plaintiff are unrelated to punishment for a crime, or to an adjudication of guilt for a crime.

12 Plaintiff's Eighth Amendment claims against Officer Barba in his first and third causes of actions  
13 are DISMISSED with prejudice because leave to amend would be futile. See *James v. Giles*, 221  
14 F.3d 1074, 1077 (9th Cir. 2000) (where amendment would be futile, denial of leave to amend is  
15 appropriate).

16 Plaintiff's second federal law claim is that Officer Barba and Director Beard violated his  
17 federal due process rights. See Dkt. No. 1-1 at 50–51(seventh cause of action); and Dkt. No. 1-1  
18 at 66–67 (fourteenth cause of action<sup>3</sup>).<sup>4</sup>

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20 <sup>2</sup> Plaintiff's second, ninth, eleventh, and thirteenth causes of action also allege that Defendants'  
21 actions constituted cruel and unusual punishment but are silent as to whether Plaintiff is alleging a  
22 violation of the federal constitution or a violation of the California constitution. Dkt. No. 1-1 at  
23 42–43, 55–56, 60–61, and 64–65. Plaintiff's second cause of action again alleges that Defendant  
24 Barba's false accusation constituted cruel and unusual punishment. Dkt. No. 1-1 at 42–43.  
25 Plaintiff's ninth, eleventh, and thirteenth causes of action allege that the actions of Lt. McCall,  
26 Officer Ramirez, and Warden Spearman, respectively, in processing his grievances constituted  
27 cruel and unusual punishment. Dkt. No. 1-1 at 55–56, 60–61, and 64–65. If these causes of action  
28 intend to allege Eighth Amendment violations, they fail for the same reason the Eighth  
Amendment claims set forth in Plaintiff's first and third causes of action fail. As discussed above,  
because these actions are unrelated to punishment for a crime, or to an adjudication of guilt for a  
crime, these allegations fail to state a cognizable Eighth Amendment claim.

<sup>3</sup> Plaintiff states a federal due process claim in his fourteenth cause of action because he cites only  
federal case law in support of his claim. Dkt. No. 1-1 at 66; *Merrell Dow Pharm. Inc. v.*  
*Thompson*, 478 U.S. 804, 808 (1986) (“the vast majority of cases brought under the general  
federal-question jurisdiction of the federal courts are those in which federal law creates the cause  
of action”).

<sup>4</sup> Plaintiff's second, third, fourth, eighth, eleventh, and fifteenth causes of action also allege due

1 In Plaintiff's seventh cause of action, he alleges that his due process rights were violated  
2 when Officer Barba falsely accused him of possessing inmate manufactured alcohol, and when  
3 Officer Arnold allowed Officer Barba to make a false accusation. The Ninth Circuit has not  
4 directly addressed whether being falsely or wrongly accused of conduct violates an inmate's  
5 federal due process rights. Other circuits, however, have held that, generally speaking, allegations  
6 of a fabricated charge fail to state a claim under § 1983. See, e.g., *Sprouse v. Babcock*, 870 F.2d  
7 450, 452 (8th Cir. 1989) (inmate's claims based on the falsity of the charges did not, standing  
8 alone, state constitutional claims; *Freeman v. Rideout*, 808 F.2d 949, 951 (2d Cir. 1986) (inmate  
9 has "no constitutionally guaranteed immunity from being falsely or wrongly accused of conduct  
10 which may result in the deprivation of a protected liberty interest;" only has right to not "be  
11 deprived of a protected liberty interest without due process of law"); *Hanrahan v. Lane*, 747 F.2d  
12 1137, 1140-41 (7th Cir. 1984) (allegation that prison guard planted false evidence implicating  
13 inmate in disciplinary infraction fails to state cognizable due process claim where procedural due  
14 process protections were afforded). The Court will allow the parties to address the viability of this  
15 claim before determining whether the claim is cognizable. The Court therefore orders Defendants  
16 to show cause why the Court should not find that Plaintiff's false accusation allegation states a  
17 cognizable federal due process claim.

18 Plaintiff's federal constitutional due process claim against Director Beard (fourteenth cause  
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20 process violations but are also silent as to whether Plaintiff is alleging a violation of the federal  
21 constitution or the California constitution. Dkt. No. 1-1 at 42-46, 52-54, 60-61, and 68-69.

22 Plaintiff's eighth cause of action alleges that Lt. McCall violated his due process rights  
23 when Lt. McCall found him guilty of the rules violation despite Officer Barba's acknowledgement  
24 that he had made false statements in the RVR. Dkt. No. 1-1 at 52-54. Plaintiff's eleventh cause  
25 of action alleges that Officer Ramirez violated his due process rights when Officer Ramirez  
26 screened out and cancelled Plaintiff's grievances related to the rules violation. Dkt. No. 1-1 at 60-  
27 61. Plaintiff's fifteenth cause of action alleges that Chief Voong violated his due process rights  
28 when Chief Voong cancelled Plaintiff's grievances related to the rules violation. Dkt. No. 1-1 at  
68-69. If these causes of action intend to allege a federal due process violation, they fail for the  
same reason that Plaintiff's federal due process claims set forth in his seventh and fourteenth  
causes of action fail. As discussed above, a prison official's role in processing, reviewing, or  
denying an inmate's grievance or appeal from a misconduct finding generally does not state a  
cognizable § 1983 claim.

Plaintiff's second, third, and fourth causes of action allege that Officer Barba falsely  
accused him of possession of inmate manufactured alcohol. Dkt. No. 1-1 at 42-46. The Court has  
ordered Defendants to show cause why an allegation of a false accusation does not state a  
cognizable federal due process claim.

1 of action) arises from Director Beard’s denial of his grievances and therefore fails to state a claim  
2 for § 1983 liability. A prisoner has no constitutional right to an effective grievance or appeal  
3 procedure. See Ramirez v. Galaza, 334 F.3d 850, 860 (9th Cir. 2003) (holding that a prisoner has  
4 no constitutional right to an effective grievance or appeal procedure); Mann v. Adams, 855 F.2d  
5 639, 640 (9th Cir. 1988) (“There is no legitimate claim of entitlement to a grievance procedure.”).  
6 A prison official’s denial of an inmate’s grievance or appeal from a misconduct finding generally  
7 does not constitute significant participation in an alleged constitutional violation sufficient to give  
8 rise to personal liability. See, e.g., Wilson v. Woodford, No. 1:05-cv-00560-OWW-SMS, 2009  
9 WL 839921, at \*6 (E.D. Cal. Mar. 30, 2009) (ruling against a prisoner on an administrative  
10 complaint does not cause or contribute to the violation). Plaintiff’s federal constitutional due  
11 process claim against Director Beard is therefore DISMISSED from this action with prejudice  
12 because leave to amend would be futile. See James, 221 F.3d at 1077.

13 The remaining claims are state law claims. Because it is unclear whether Plaintiff has  
14 stated any cognizable federal law claims, the Court will not screen Plaintiff’s state law claims at  
15 this time. If the Court finds that Plaintiff has stated a cognizable federal law claim, the Court will  
16 screen the state law claims at that time.


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1 **CONCLUSION**

2 For the foregoing reasons, the Court DISMISSES with prejudice Plaintiff's federal law  
3 claim that Officer Barba's false accusation constituted cruel and unusual punishment in violation  
4 of the Eighth Amendment, and his claim that Director Beard's denial of his grievances violated  
5 Plaintiff's federal due process rights. The Court will not screen Plaintiff's state law claims at this  
6 time. Within twenty-eight (28) days of this order, the Court orders Defendants to show cause why  
7 the Court should not find that Plaintiff's false accusation allegation states a cognizable due process  
8 claim. If Plaintiff so wishes, he may file an opposition to Defendants' response to the order to  
9 show cause. The opposition shall be filed no later than twenty-eight (28) days after the  
10 Defendants' response is filed.

11 **IT IS SO ORDERED.**

12 Dated: 5/2/2018

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14 HAYWOOD S. GILLIAM, JR.  
15 United States District Judge  
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