

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

WILLIAM J. JONES,

Plaintiff,

v.

CORCORAN SUBSTANCE ABUSE
TREATMENT FACILITY II, et al.,

Defendants.

Case No. CV 18-3023 AB (SS)

**MEMORANDUM DECISION AND ORDER
DISMISSING COMPLAINT WITH
LEAVE TO AMEND**

**I.
INTRODUCTION**

On April 3, 2018,¹ Plaintiff William J. Jones ("Plaintiff"), a California state prisoner proceeding pro se, constructively filed a civil rights complaint pursuant to 42 U.S.C. § 1983.

¹ The "mailbox rule" announced by the Supreme Court in Houston v. Lack, 487 U.S. 266 (1988), applies to § 1983 cases. See Douglas v. Noelle, 567 F.3d 1103, 1107 (9th Cir. 2009). Pursuant to the mailbox rule, pro se prisoner legal filings are deemed filed on the date the prisoner delivers the document to prison officials for forwarding to the court clerk. Id. Here, the Complaint's Proof of Service indicates that Plaintiff sent the Complaint on April 3, 2018.

1 ("Complaint," Dkt. No. 1 at 36). On May 21, 2018, because it
2 appeared that Plaintiff previously had filed numerous meritless
3 cases, the Court issued an Order To Show Cause Why This Court
4 Should Not Deem Plaintiff A Vexatious Litigant. ("OSC," Dkt. No.
5 7). Plaintiff responded on June 4, 2018. (Dkt. No. 9). After
6 reviewing the response, the Court vacated the OSC on July 12, 2018.
7 (Dkt. Nos. 10). The Court granted Plaintiff's request for Leave
8 to Proceed Without Prepayment of Filing Fee. (Dkt. No. 12).

9
10 The Court has screened Plaintiff's complaint pursuant to 28
11 U.S.C. § 1915A(a), which requires district courts to perform an
12 initial screening of complaints in civil actions where a prisoner
13 seeks redress from a governmental entity or employee. This Court
14 may dismiss such a complaint, or any portion, before service of
15 process if it concludes that the complaint (1) is frivolous or
16 malicious, (2) fails to state a claim upon which relief can be
17 granted, or (3) seeks monetary relief from a defendant who is
18 immune from such relief. 28 U.S.C. § 1915A(b) (1-2); see also Lopez
19 v. Smith, 203 F.3d 1122, 1126-27 & n.7 (9th Cir. 2000) (en banc).
20 For the reasons stated below, the Court DISMISSES the Complaint
21 with leave to amend.²

22
23
24 _____
25 ² A magistrate judge may dismiss a complaint with leave to amend
26 without the approval of a district judge. See McKeever v. Block,
27 932 F.2d 795, 798 (9th Cir. 1991) (finding that "the dismissal of
28 a complaint with leave to amend is a non-dispositive matter").
Consistent with McKeever, the Court concludes that its Order
Dismissing Complaint with Leave to Amend is a non-dispositive
Order. However, pursuant to Federal Rule of Civil Procedure 72,
if Plaintiff disagrees, he may file an objection with the District

1 II.

2 ALLEGATIONS OF THE COMPLAINT

3
4 Plaintiff sues thirteen Defendants: (1) Corcoran Substance
5 Abuse Treatment Facility II ("the Facility"); (2) Warden Stu
6 Sherman ("Sherman"); (3) Captain W. Cotter ("Cotter"); (4) Captain
7 M Solario ("Solario"); (5) Lieutenant Ward ("Ward"); (6) Sergeant
8 Leahy ("Leahy"); (7) Sergeant Roacha ("Roacha"); (8) Sergeant
9 Ibarra ("Ibarra"); (9) Correctional Officer Coffman ("Coffman");
10 (10) Correctional Officer Cribbs ("Cribbs"); (11) Correctional
11 Officer Heavener or Heavenly ("Heavener/ly"); (12) Correctional
12 Officer Sasin ("Sasin"); and (13) Correctional Officer Reveles
13 ("Reveles"). (Complaint at 2-7). Aside from the Facility, all
14 Defendants are sued in both their individual and official
15 capacities. (Id.).

16
17 The Complaint raises four claims. The first three concern
18 allegations that Defendants took his property. Specifically, Claim
19 1 asserts that Plaintiff was deprived of his property in violation
20 of the Fifth Amendment. (Id. at 8-20). In support of this claim,
21 he alleges that when he went to pick up his property at Receiving
22 and Release ("R&R") after being transferred to the Facility, Cribbs
23 informed him that he had too much property. (Id. at 9). Cribbs
24 gave him a box to store his property in, and Plaintiff was to send
25 home or discard whatever did not fit. (Id.). When Plaintiff

26
27 _____
28 Judge. See Bastidas v. Chappell, 791 F.3d 1155, 1162 (9th Cir. 2015).

1 complained that he was entitled to "one extra cubit [sic] foot of
2 property," Cribbs, Coffman and Sasin "began to plunder Plaintiff's
3 property." (Id. at 10). Later, Coffman removed Plaintiff's
4 television, explaining that "this is a bubble T.V. it is not allowed
5 here." (Id.). Coffman gave Plaintiff the option to send it home,
6 donate it, or have it destroyed. (Id.). Plaintiff also alleges
7 that Reveles and Sasin later stole a number of other items from
8 him. (Id. at 14-15). In addition, Plaintiff alleges in Claim 1
9 that when Plaintiff complained, upon being transferred to the
10 Facility, that he was not supposed to be housed in a dorm setting
11 because he "had 58 points . . . [and] was a third-striker [with]
12 life," Heavener/ly failed to respond and correct the mistake. (Id.
13 at 8).

14
15 In Claim 2, Plaintiff asserts that he was deprived of his
16 religious artifacts in violation of the First Amendment. (Id. at
17 21-25). He alleges that Coffman and Sasin confiscated Plaintiff's
18 religious necklace, prayer rug, tallith and matching yarmulke, and
19 Ibarra told him the necklace was "1/16 of an inch too big." (Id.
20 at 11). Plaintiff was provided a form to send the confiscated
21 property home. (Id.). When he attempted to send his property home
22 with a "pre-paid bulk rate postage," however, Cribbs told him he
23 could not "use postage stamps to send property home" because he
24 needed "money on the books." (Id.).

25
26 In Claim 3, Plaintiff asserts that he was subject to an
27 unreasonable search and seizure in violation of the Fourth
28

1 Amendment, based on the alleged actions described above. (Id. at
2 26-31).

3
4 In Claim 4, Plaintiff alleges that he was deprived of access
5 to the court in violation of the Fourteenth Amendment. (Id. at
6 32-33). He claims that on June 28, 2018, Cribbs sent him a notice
7 that his property would be destroyed if he "did not get funds put
8 on it's books." (Id. at 12). In response, Plaintiff filed a
9 California Department of Corrections and Rehabilitation ("CDCR")
10 Form 602 to appeal the alleged mishandling of his property. (Id.).
11 He alleges that he then conferred with Cotter, Ward and Leahy, who
12 arranged for Plaintiff "to swap out [his] property." (Id. at 13).
13 On July 29, 2018, when Plaintiff thought he was going to R&R to
14 retrieve his property, he was refused service by Cribbs and Ibarra.
15 (Id. at 12-13). Plaintiff states that he was provided a hearing
16 for his CDCR Form 602 on August 2, 2017, but felt that Reveles
17 "interrupted and muddied the waters with rhetoric that fell outside
18 the scope of the issues at hand." (Id. at 14).

19
20 Plaintiff seeks \$249,833.45 in compensatory damages
21 (\$215,000.00 against Defendants and \$34,833.45 in property loss)
22 and \$1,000,000.00 in punitive damages. (Id. at 34-35).

23 24 **III.**

25 **DISCUSSION**

26
27 The Court must dismiss the Complaint pursuant to 28 U.S.C. §
28 1915A(b) because it violates Federal Rule of Civil Procedure 8,

1 among various other defects. However, because it is not
2 "absolutely clear that the deficiencies of the complaint could not
3 be cured by amendment," Akhtar v. Mesa, 698 F.3d 1202, 1212 (9th
4 Cir. 2012) (citation and internal quotation marks omitted), the
5 Court gives Plaintiff leave to amend his claims.

6
7 Federal Rule of Civil Procedure 8(a)(2) requires that a
8 complaint contain "'a short and plain statement of the claim
9 showing that the pleader is entitled to relief,' in order to 'give
10 the defendant fair notice of what the . . . claim is and the grounds
11 upon which it rests.'" Bell Atlantic Corp. v. Twombly, 550 U.S.
12 544, 555 (2007) (quoting Fed. R. Civ. P. 8(a)). Rule 8 may be
13 violated when a pleading "says too little," and "when a pleading
14 says too much." Knapp v. Hogan, 738 F.3d 1106, 1108 (9th Cir.
15 2013) (emphasis in original). However, the courts also have an
16 obligation to give liberal construction to the filings of pro se
17 litigants, especially when they are civil rights claims made by
18 inmates. Blaisdell v. Frappiea, 729 F.3d 1237, 1241 (9th Cir.
19 2013); see also Erickson v. Pardus, 511 U.S. 89, 94 (2007) (per
20 curiam).

21
22 The Complaint fails to comply with Rule 8 because its
23 allegations are repetitive and excessive. Plaintiff continuously
24 repeats irrelevant facts throughout the Complaint, including how
25 "Plaintiff was not supposed to be in a dorm setting [because he]
26 had 58 points." (Complaint at 8-9, 12-14). Although it may have
27 been incorrect to house Plaintiff in a dorm setting, it has no
28 apparent relevance to Plaintiff's constitutional rights under the

1 First, Fourth, Fifth and Fourteenth Amendments. To properly plead
2 his claims, Plaintiff should only allege facts that are relevant
3 and give rise to a § 1983 action, including that Defendants are
4 acting under color of law, what their specific actions were, and
5 how their actions directly violated his constitutional rights under
6 the Eighth Amendment. Excessive, unnecessary and irrelevant
7 allegations render the pleading confusing and violate Rule 8's
8 requirement of a "short and plain statement of the claim." See,
9 e.g., Knapp, 738 F.3d at 1108. In addition, because Plaintiff is
10 not required to provide evidence supporting his claims at this
11 stage of the litigation, it is unnecessary for him to attach
12 extensive exhibits.

13
14 The Complaint also fails to comply with Rule 8 due to its
15 unsupported conclusory allegations. Specifically, paragraphs 39
16 through 77 provide nothing more than a "formulaic recitation of
17 the elements" of a § 1983 claim. (Complaint at 8, 17-33); Twombly,
18 550 U.S. at 555; Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) ("Rule
19 8 . . . does not require 'detailed factual allegations,' but it
20 demands more than an unadorned, the-defendant-unlawfully-harmed-me
21 accusation." (quoting Twombly, 550 U.S. at 555)).

22
23 Although the Complaint does provide specific allegations
24 regarding the conduct of each listed Defendant, these fail to
25 support any § 1983 claims. To establish a civil rights violation,
26 a plaintiff must show either the defendant's direct, personal
27 participation in the constitutional violation, or some sufficient
28 causal connection between the defendant's conduct and the alleged

1 violation. See Starr v. Baca, 652 F.3d 1202, 1205-06 (9th Cir.
2 2011). The Complaint's factual allegations do not show how
3 Defendants personally violated any constitutional rights. For
4 example, the Complaint's only reference to Heavener/ly is that he
5 left Plaintiff to be housed in a dorm setting at the Facility and
6 instructed Plaintiff that he would receive his property "later"
7 because he had "to[o] many boxes." (Complaint at 8). Similarly,
8 as to Cotter, Ward and Leahy, Plaintiff states merely that they
9 met with Plaintiff and addressed his concerns by taking appropriate
10 administrative measures to rectify the situation. (Id. at 13).
11 The only mention of Solario, moreover, was that he informed
12 Plaintiff that he was being transferred," affirming Plaintiff's
13 own contention that he inappropriately housed. (Id. at 14). None
14 of these allegations show violations of constitutional rights.
15 Because the Complaint violates Rule 8, it is dismissed with leave
16 to amend.

17 18 IV.

19 CONCLUSION

20
21 For the reasons stated above, the Complaint is dismissed with
22 leave to amend. If Plaintiff still wishes to pursue this action,
23 he is granted **thirty (30) days** from the date of this Memorandum
24 and Order within which to file a First Amended Complaint. In any
25 amended complaint, Plaintiff shall **cure the defects** described
26 above. **Plaintiff shall not include new defendants or new**
27 **allegations that are not reasonably related to the claims asserted**
28 **in the Complaint.** The First Amended Complaint, if any, shall be

1 complete in itself and shall not refer in any manner to the original
2 Complaint. Its caption page shall bear the designation "First
3 Amended Complaint" and the case number assigned to this action.
4

5 The First Amended Complaint should be short and concise. In
6 any amended complaint, Plaintiff should confine his allegations to
7 those operative facts supporting each of his claims. Plaintiff is
8 advised that pursuant to Federal Rule of Civil Procedure 8(a), all
9 that is required is a "short and plain statement of the claim
10 showing that the pleader is entitled to relief." **Plaintiff is**
11 **strongly encouraged to utilize the standard civil rights complaint**
12 **form when filing any amended complaint, a copy of which is attached.**

13 In any amended complaint, Plaintiff should identify the nature of
14 each separate legal claim and the Defendant (by name) against whom
15 the claim is asserted, and make clear what specific factual
16 allegations support each separate claim. Plaintiff is strongly
17 encouraged to keep his statements concise and to omit irrelevant
18 details. It is not necessary for Plaintiff to cite case law or
19 include legal argument.
20

21 **Plaintiff is explicitly cautioned that failure to timely file**
22 **a First Amended Complaint, or failure to correct the deficiencies**
23 **described above, will result in a recommendation that this action**
24 **be dismissed with prejudice for failure to prosecute and obey Court**
25 **orders pursuant to Federal Rule of Civil Procedure 41(b).**
26 **Plaintiff is further advised that if he no longer wishes to pursue**
27 **this action, he may voluntarily dismiss it by filing a Notice of**
28 **Dismissal in accordance with Federal Rule of Civil Procedure**

1 41(a)(1). A form Notice of Dismissal is attached for Plaintiffs'
2 convenience. If Plaintiff utilizes the Notice of Dismissal, he is
3 instructed to clearly state whether he is dismissing the entire
4 action or only certain claims or certain Defendants.

5
6 DATED: August 17, 2018

7
8 /s/
9 SUZANNE H. SEGAL
10 UNITED STATES MAGISTRATE JUDGE

11 THIS DECISION IS NOT INTENDED FOR PUBLICATION IN LEXIS, WESTLAW OR
12 ANY OTHER LEGAL DATABASE.
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28