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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JACK ROBERT SMITH,
Plaintiff,
v.
HARRY OREOL, ET AL.,
Defendants.

Case No. EDCV 17-1135-JFW (KK)

ORDER DISMISSING COMPLAINT
WITH LEAVE TO AMEND

I.
INTRODUCTION

Plaintiff Jack Robert Smith (“Plaintiff”) has filed a pro se civil rights complaint (“Complaint”) alleging Defendants Harry Oreol and all staff members of Patton State Hospital (“Defendants”) violated his First, Fifth, Eighth, and Fourteenth Amendment rights under 42 U.S.C. § 1983 (“Section 1983”). Plaintiff additionally raises state law claims including negligent infliction of emotional distress, intentional infliction of emotional distress, medical malpractice, illegal detainment, and defamation. For the reasons discussed below, the Court dismisses the Complaint with leave to amend.

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1 **II.**

2 **BACKGROUND**

3 On June 4, 2017, Plaintiff constructively filed¹ a pro se civil rights complaint
4 alleging staff employed by Patton State Hospital violated his First, Fifth, Eighth,
5 and Fourteenth Amendment rights and committed other state law violations. ECF
6 Docket No. (“Dkt.”) 1 at 5. Plaintiff’s claims are based on allegations of “physical
7 abuse [and] ongoing mental abuse & is about [Plaintiff] being illegally detained [at
8 Patton State Hospital].” Id. at 7. Plaintiff further alleges “[his] character has been
9 assassinated, [he] has been lied about, physically abused, slandered.” Id. at 8. He
10 additionally claims Defendants “force [him] on medication, tell [him] to shut up &
11 then they desperately try & convince everybody that [he] is incompetent & [is]
12 incapable of making important life decisions.” Id.

13 Plaintiff alleges he has submitted “serious complaints” about his treatment,
14 yet “[the hospital’s] first response was not to address the issue and help [him] in
15 any way.” Id. According to Plaintiff, “[his] current doctor is trying to get [him]
16 released straight out . . . [b]ut Harry Oreol the executive director of the hospital
17 refuses to allow that power to be exercised.” Id. at 7. Plaintiff alleges, as a result,
18 Defendants “are robbing [him] of his constitutional rights.” Id.

19 Plaintiff seeks \$100,000,000 in monetary damages, as well as declaratory and
20 injunctive relief requiring (1) release of “all non dangerous patients that are capable
21 of living by themselves or with the aid of responsible family or friends”; and (2)
22 “ConRep or any outpatient treatment program be made optional and not
23 mandatory.” Id. at 6.

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27 ¹ Under the “mailbox rule,” when a pro se inmate gives prison authorities a
28 pleading to mail to court, the court deems the pleading constructively “filed” on
the date it is signed. Roberts v. Marshall, 627 F.3d 768, 770 n.1 (9th Cir. 2010)
(citation omitted); Douglas v. Noelle, 567 F.3d 1103, 1107 (9th Cir. 2009) (stating
the “mailbox rule applies to § 1983 suits filed by pro se prisoners”).

1 III.

2 **STANDARD OF REVIEW**

3 In civil actions where the plaintiff is proceeding in forma pauperis, Congress
4 requires district courts to dismiss the complaint “at any time” if the court
5 determines the complaint, or any portion thereof: (1) is frivolous or malicious; (2)
6 fails to state a claim upon which relief can be granted; or (3) seeks monetary relief
7 from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2); see also
8 Lopez v. Smith, 203 F.3d 1122, 1126-27 n.7 (9th Cir. 2000) (en banc).

9 Even when a plaintiff is not proceeding in forma pauperis, Federal Rule of
10 Civil Procedure 12(b)(6) permits a court to dismiss a claim sua sponte and without
11 notice “where the claimant cannot possibly win relief.” Omar v. Sea-Land Serv.,
12 Inc., 813 F.2d 986, 991 (9th Cir. 1987); see also Sparling v. Hoffman Constr. Co.,
13 864 F.2d 635, 638 (9th Cir. 1988) (same). The court’s authority in this regard
14 includes sua sponte dismissal of claims against defendants who have not been
15 served and defendants who have not yet answered or appeared. See Abagnin v.
16 AMVAC Chemical Corp., 545 F.3d 733, 742-43 (9th Cir. 2008).

17 In applying these standards, “a pro se complaint, however inartfully pleaded,
18 must be held to less stringent standards than formal pleadings drafted by lawyers.”
19 Woods v. Carey, 525 F.3d 886, 889-90 (9th Cir. 2008) (citations and internal
20 quotation marks omitted). However, “a pro se litigant is not excused from
21 knowing the most basic pleading requirements” or “from following court rules.”
22 Am. Ass’n of Naturopathic Physicians v. Hayhurst, 227 F.3d 1104, 1107-08 (9th
23 Cir. 2000) (citation and internal quotation marks omitted); see also Piler v. Ford,
24 542 U.S. 225, 231, 124 S. Ct. 2441, 159 L. Ed. 2d 338 (2004) (“District judges have
25 no obligation to act as counsel or paralegal to pro se litigants.”).

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1 IV.

2 **DISCUSSION**

3 **A. THE COMPLAINT DOES NOT UNAMBIGUOUSLY IDENTIFY**
4 **DEFENDANTS**

5 **(1) APPLICABLE LAW**

6 Rule 10(a) of the Federal Rules of Civil Procedure requires that each
7 defendant be named in the caption of the complaint. A complaint is subject to
8 dismissal if “one cannot determine from the complaint who is being sued, [and] for
9 what relief” McHenry v. Renne, 84 F.3d 1172, 1178 (9th Cir. 1996).

10 **(2) ANALYSIS**

11 Here, Plaintiff lists Harry Oreol and “all the hospital staff” as defendants.
12 See Compl. at 1. However, in the body of the Complaint, Plaintiff appears to omit
13 Harry Oreol and only includes “all the hospital staff.” Id. at 3. If Plaintiff wishes
14 to include claims against Harry Oreol, he must specifically identify Harry Oreol and
15 any claims alleged against him. In the amended complaint, Plaintiff must clarify
16 exactly who the defendants are – at a minimum, the caption and body of the
17 complaint must agree.

18 **B. THE COMPLAINT FAILS TO COMPLY WITH FEDERAL RULE**
19 **OF CIVIL PROCEDURE 8**

20 **(1) APPLICABLE LAW**

21 Under Federal Rule of Civil Procedure 8 (“Rule 8”), a complaint must
22 contain a “short and plain statement of the claim showing the pleader is entitled to
23 relief,” and “[e]ach allegation must be simple, concise, and direct.” Fed. R. Civ.
24 P. 8(a), (d). “[T]he short and plain statement must provide the defendant with fair
25 notice of what the plaintiff’s claim is and the grounds upon which it rests.” Dura
26 Pharms., Inc. v. Broudo, 544 U.S. 336, 346, 125 S. Ct. 1627, 161 L. Ed. 2d 577
27 (2005) (citation omitted). “Experience teaches that, unless cases are pled clearly
28 and precisely, issues are not joined, discovery is not controlled, the trial court’s

1 docket becomes unmanageable, the litigants suffer, and society loses confidence in
2 the court’s ability to administer justice.” Bautista v. Los Angeles Cnty., 216 F.3d
3 837, 841 (9th Cir. 2000) (citations and internal quotation marks omitted).

4 Rule 8 “has been held to be violated by a pleading that was needlessly long,
5 or a complaint that was highly repetitious, or confused, or consisted of
6 incomprehensible rambling.” Cafasso v. Gen. Dynamics C4 Sys., Inc., 637 F.3d
7 1047, 1059 (9th Cir. 2011) (citation and internal quotation marks omitted). See also
8 McHenry v. Renne, 84 F.3d 1172, 1177 (9th Cir. 1996) (affirming the dismissal of a
9 complaint under Rule 8 for being “argumentative, prolix, replete with redundancy,
10 and largely irrelevant”). A complaint may be dismissed for violating Rule 8 even if
11 “a few possible claims” can be identified and the complaint is not “wholly without
12 merit.” Id. at 1179 (stating Rule 8’s requirements apply “to good claims as well as
13 bad”). See also Cafasso, 637 F.3d at 1059 (discussing cases in which the Ninth
14 Circuit affirmed Rule 8 dismissals); Hearns v. San Bernardino Police Dep’t, 530
15 F.3d 1124, 1130-31 (9th Cir. 2008) (same).

16 (2) ANALYSIS

17 Here, the Complaint is needlessly long, rambling, and confusing. See
18 Cafasso, 637 F.3d at 1059. The Complaint, including attachments, is over 250
19 pages long and contains unnecessary and irrelevant information. See Dkt. 1,
20 Compl.; McHenry, 84 F.3d at 1177. The Court is unable to determine from the
21 Complaint who Plaintiff intends to sue and what claims he intends to raise.
22 Unclear pleadings such as the Complaint, that “leav[e] it to the Court to figure out
23 what the full array of [Plaintiff’s] claims is and upon what federal law, and upon
24 what facts, each claim is based,” remain subject to dismissal. Little v. Baca, No.
25 CV 13-0373-PA (RZ), 2013 WL 436018, at *3 (C.D. Cal. Feb. 1, 2013).
26 Accordingly, the Court must dismiss the Complaint for failure to comply with Rule
27 8. See McHenry, 84 F.3d at 1177; see also Clayburn v. Schirmer, No. CIV S-06-
28 2182-ALA (P), 2008 WL 564958, at *3-4 (E.D. Cal. Feb. 28, 2008) (Alarcón,

1 Circuit J., sitting by designation) (dismissing “long, rambling pleading” under Rule
2 8 and noting “[t]he court (and any defendant) should be able to read and
3 understand Plaintiff’s pleading within minutes”).

4 In amending the Complaint, Plaintiff must state each claim separately and
5 identify Defendants for each claim. In addition, for each claim, Plaintiff should
6 clearly, precisely, and briefly identify the legal basis and the facts underlying it. See
7 Bautista, 216 F.3d at 840-41. Plaintiff should only include facts necessary to state a
8 claim and need not include additional exhibits to support his allegations. Instead,
9 Plaintiff should clearly state (1) the alleged harm; (2) who caused the alleged harm;
10 (3) when the alleged harm was committed; and (4) what actions were committed by
11 each alleged wrongdoer.

12 **C. THE COMPLAINT FAILS TO COMPLY WITH FEDERAL RULE**
13 **OF CIVIL PROCEDURE 12(b)(6)**

14 **(1) APPLICABLE LAW**

15 As stated above, Federal Rule of Civil Procedure 12(b)(6) (“Rule 12(b)(6)”)
16 permits a court to dismiss a claim sua sponte and without notice “where the
17 claimant cannot possibly win relief.” Omar, 813 F.2d 986, 991.

18 **(2) ANALYSIS**

19 Here, because the Court cannot decipher Plaintiff’s allegations, Plaintiff fails
20 to state a claim and “cannot possibly win relief.” See id. Thus, the Court must
21 dismiss the Complaint for failure to comply with Rule 12(b)(6). Id.

22 **V.**

23 **LEAVE TO FILE A FIRST AMENDED COMPLAINT**

24 For the foregoing reasons, the Complaint is subject to dismissal. As the
25 Court is unable to determine whether amendment would be futile, leave to amend
26 is granted. See Lucas v. Dep’t of Corr., 66 F.3d 245, 248 (9th Cir. 1995) (per
27 curiam).

1 Accordingly, IT IS ORDERED THAT **within twenty-one (21) days** of the
2 service date of this Order, Plaintiff choose one of the following two options:

3 1. Plaintiff may file a First Amended Complaint to attempt to cure the
4 deficiencies discussed above. **The Clerk of Court is directed to mail Plaintiff a**
5 **blank Central District civil rights complaint form to use for filing the First**
6 **Amended Complaint, which the Court encourages Plaintiff to use.**

7 If Plaintiff chooses to file a First Amended Complaint, Plaintiff must clearly
8 designate on the face of the document that it is the “First Amended Complaint,” it
9 must bear the docket number assigned to this case, and it must be retyped or
10 rewritten in its entirety, preferably on the court-approved form. Plaintiff shall not
11 include new defendants or new allegations that are not reasonably related to the
12 claims asserted in the Complaint. In addition, the First Amended Complaint must
13 be complete without reference to the Complaint or any other pleading, attachment,
14 or document.

15 An amended complaint supersedes the preceding complaint. Ferdik v.
16 Bonzelet, 963 F.2d 1258, 1262 (9th Cir. 1992). After amendment, the Court will
17 treat all preceding complaints as nonexistent. Id. Because the Court grants
18 Plaintiff leave to amend as to all his claims raised here, any claim raised in a
19 preceding complaint is waived if it is not raised again in the First Amended
20 Complaint. Lacey v. Maricopa Cnty., 693 F.3d 896, 928 (9th Cir. 2012).

21 2. Alternatively, Plaintiffs may voluntarily dismiss the action without
22 prejudice, pursuant to Federal Rule of Civil Procedure 41(a). **The Clerk of Court**
23 **is directed to mail Plaintiffs a blank Notice of Dismissal Form, which the**
24 **Court encourages Plaintiffs to use.**

25 The Court advises Plaintiff that it generally will not be well-disposed toward
26 another dismissal with leave to amend if Plaintiff files a First Amended Complaint
27 that continues to include claims on which relief cannot be granted. “[A] district
28 court’s discretion over amendments is especially broad ‘where the court has

1 already given a plaintiff one or more opportunities to amend his complaint.’”
2 Ismail v. County of Orange, 917 F. Supp.2d 1060, 1066 (C.D. Cal. 2012) (citations
3 omitted); see also Ferdik, 963 F.2d at 1261. Thus, **if Plaintiff files a First**
4 **Amended Complaint with claims on which relief cannot be granted, the First**
5 **Amended Complaint will be dismissed without leave to amend and with**
6 **prejudice.**

7 **Plaintiff is explicitly cautioned that failure to timely file a First**
8 **Amended Complaint will result in this action being dismissed with prejudice**
9 **for failure to state a claim, prosecute and/or obey Court orders pursuant to**
10 **Federal Rule of Civil Procedure 41(b).**

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Dated: June 20, 2017



HONORABLE KENLY KIYA KATO
United States Magistrate Judge