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

Raft L. Thompson,)	No. CV 1-06-0763-RCC
Plaintiff,)	ORDER
vs.)	
James A. Yates, et al.,)	
Defendants.)	

Plaintiff Raft Thompson, who is confined in the Pleasant Valley State Prison (PVSP) in Coalinga, California, has filed a *pro se* civil rights First Amended Complaint pursuant to 42 U.S.C. § 1983 (Doc. #18). The Court will dismiss Plaintiff’s “fundamental liberty interest” and First Amendment claims, but require an answer to his equal protection claim.

I. Background.

Plaintiff filed his original Complaint on June 16, 2006. (Doc. # 1.) On July 10, 2008, United States Magistrate Judge Sandra M. Snyder issued an Order dismissing the Complaint for failure to state a claim and giving Plaintiff an opportunity to file a first amended complaint. (Doc. # 15.) On September 19, 2008, Plaintiff filed a First Amended Complaint. (Doc. #18.) The case was reassigned to the undersigned judge on November 25, 2008. (Doc. # 19).

II. Statutory Screening of Prisoner Complaints

The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or an officer or an employee of a governmental entity. 28 U.S.C.

1 § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff has raised
2 claims that are legally frivolous or malicious, that fail to state a claim upon which relief may
3 be granted, or that seek monetary relief from a defendant who is immune from such relief.
4 28 U.S.C. § 1915A(b)(1), (2).

5 **III. First Amended Complaint**

6 Plaintiff names two PVSP officials as Defendants: James A. Yates, Warden; and
7 Timothy Lockwood, Chief of Rules and Regulations. Plaintiff alleges that he has been
8 wrongfully denied contact visits with his son. Under § 3173.1 of the California Code of
9 Regulations, prisoners who have been convicted of certain listed sex offenses against minors
10 may visit with any minor who is not the victim of the crime only on a non-contact basis.
11 Plaintiff argues that application of that regulation to prevent him from contact visits with his
12 child violates his fundamental liberty interest and his First Amendment right to freedom of
13 association. Plaintiff also argues that Defendants have knowingly violated his equal
14 protection rights by allowing similarly situated prisoners to have contact visits with their
15 children while denying such visits to him. Plaintiff seeks damages, injunctive relief, and the
16 appointment of a trustee to monitor contact visits between parents and children.

17 **IV. Failure to State a Claim**

18 Plaintiff claims that Defendants have violated his fundamental liberty interest and his
19 First Amendment right to freedom of association by permitting him only non-contact
20 visitation with his child. Plaintiff has failed to state a cognizable claim for relief under either
21 the due process clause or the First Amendment.

22 During the period of confinement in prison, the right of intimate association,
23 “a fundamental element of personal liberty,” Roberts v. United States Jaycees,
24 468 U.S. 609, 618 (1984), is necessarily abridged. Intimate association
25 protects the kinds of relationships “that attend the creation and sustenance of
26 a family-marriage, childbirth, the raising and education of children, and
27 cohabitation with one's relatives....” Id. at 619 (citations omitted). The loss
28 of the right to intimate association is simply part and parcel of being
imprisoned for conviction of a crime.

Gerber v. Hickman, 291 F.3d 617, 621 (9th Cir. 2002) (*en banc*). Prisoners have no
constitutional right to contact visitation. Barnett v. Centoni, 31 F.3d 813, 817 (9th Cir. 1994)

1 (*per curiam*). Even a blanket prohibition of contact visitation between inmates and their
2 families is not unconstitutional. Block v. Rutherford, 468 U.S. 576 (1984). Accordingly,
3 Plaintiff's claim that the denial of contact visits with his child violates his First Amendment
4 and fundamental liberty interest under the Fourteenth Amendment will be dismissed for
5 failure to state a claim.

6 **V. Claim for Which an Answer Will be Required**

7 Liberally construed, Plaintiff's equal protection claim adequately states a claim. The
8 Court will require Defendants to answer that claim.

9 **VI. Warnings**

10 **A. Address Changes**

11 Plaintiff must file and serve a notice of a change of address in accordance with Rule
12 83-182(f) and 83-183(b) of the Local Rules of Civil Procedure. Plaintiff must not include
13 a motion for other relief with a notice of change of address. Failure to comply may result in
14 dismissal of this action.

15 **B. Copies**

16 Plaintiff must submit an additional copy of every filing for use by the Court. See
17 LRCiv 5-133(d)(2). Failure to comply may result in the filing being stricken without further
18 notice to Plaintiff.

19 **C. Possible Dismissal**

20 If Plaintiff fails to timely comply with every provision of this Order, including these
21 warnings, the Court may dismiss this action without further notice. See Ferdik v. Bonzelet,
22 963 F.2d 1258, 1260-61 (9th Cir. 1992) (a district court may dismiss an action for failure to
23 comply with any order of the Court).

24 **IT IS ORDERED:**

25 (1) Plaintiff's First Amendment and "fundamental liberty interest" claims are
26 **dismissed** for failure to state a claim.

27 (2) Defendants Yates and Lockwood must answer Plaintiff's equal protection
28 claim.

1 (3) The Clerk of Court must send Plaintiff a service packet including the First
2 Amended Complaint (Doc. #18), this Order, a Notice of Submission of Documents form, an
3 instruction sheet, and copies of summons and USM-285 forms for Defendants Yates and
4 Lockwood.

5 (4) Within **30 days** of the date of filing of this Order, Plaintiff must complete and
6 return to the Clerk of Court the Notice of Submission of Documents. Plaintiff must submit
7 with the Notice of Submission of Documents: a copy of the Complaint for each Defendant,
8 a copy of this Order for each Defendant, a completed summons for each Defendant, and a
9 completed USM-285 for each Defendant.

10 (5) Plaintiff must not attempt service on Defendants and must not request waiver
11 of service. Once the Clerk of Court has received the Notice of Submission of Documents and
12 the required documents, the Court will direct the United States Marshal to seek waiver of
13 service from each Defendant or serve each Defendant.

14 (6) **If Plaintiff fails to return the Notice of Submission of Documents and the**
15 **required documents within 30 days of the date of filing of this Order, the Clerk of Court**
16 **must, without further notice, enter a judgment of dismissal of this action without**
17 **prejudice. See Fed. R. Civ. P. 41(b).**

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19 DATED this 28th day of April, 2009.

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Raner C. Collins
United States District Judge