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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

RICKY JAMES,		CASE NO. 1:08-cv-00351-LJO-DLB PC
	Plaintiff,	ORDER DISREGARDING PLAINTIFF’S
		MOTION AS UNNECESSARY
v.		(Doc. 12)
J. WILBER, et al.,		
	Defendants.	

Plaintiff Ricky James (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On January 13, 2009, Plaintiff filed a motion requesting “A Liberal Interpretation to Plaintiff’s Factual Allegations in this Civil Rights Action.” (Doc. 12.)

First, Plaintiff filed his motion after the Court had already screened Plaintiff’s complaint and found that it stated some cognizable claims. 28 U.S.C. § 1915A(a). Second, when screening a complaint the Court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1),(2). “Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that . . . the action or appeal . . . fails to state a claim upon which relief may be granted.” 28 U.S.C. § 1915(e)(2)(B)(ii).

“Rule 8(a)’s simplified pleading standard applies to all civil actions, with limited

1 exceptions,” none of which applies to section 1983 actions. Swierkiewicz v. Sorema N. A., 534 U.S.  
2 506, 512 (2002); Fed. R. Civ. Pro. 8(a). Pursuant to Rule 8(a), a complaint must contain “a short  
3 and plain statement of the claim showing that the pleader is entitled to relief . . . .” Fed. R. Civ. Pro.  
4 8(a). “Such a statement must simply give the defendant fair notice of what the plaintiff’s claim is  
5 and the grounds upon which it rests.” Swierkiewicz, 534 U.S. at 512. A court may dismiss a  
6 complaint only if it is clear that no relief could be granted under any set of facts that could be proved  
7 consistent with the allegations. Id. at 514. ““The issue is not whether a plaintiff will ultimately  
8 prevail but whether the claimant is entitled to offer evidence to support the claims. Indeed it may  
9 appear on the face of the pleadings that a recovery is very remote and unlikely but that is not the  
10 test.”” Jackson v. Carey, 353 F.3d 750, 755 (9th Cir. 2003) (quoting Scheuer v. Rhodes, 416 U.S.  
11 232, 236 (1974)); see also Austin v. Terhune, 367 F.3d 1167, 1171 (9th Cir. 2004) (““Pleadings need  
12 suffice only to put the opposing party on notice of the claim . . . .”” (quoting Fontana v. Haskin, 262  
13 F.3d 871, 977 (9th Cir. 2001))). However, “the liberal pleading standard . . . applies only to a  
14 plaintiff’s factual allegations.” Neitze v. Williams, 490 U.S. 319, 330 n.9 (1989). “[A] liberal  
15 interpretation of a civil rights complaint may not supply essential elements of the claim that were not  
16 initially pled.” Bruns v. Nat’l Credit Union Admin., 122 F.3d 1251, 1257 (9th Cir. 1997) (quoting  
17 Ivey v. Bd. of Regents, 673 F.2d 266, 268 (9th Cir. 1982)).

18 The Court has screened Plaintiff’s complaint using the above analysis. Plaintiff’s motion is  
19 DISREGARDED as unnecessary.

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IT IS SO ORDERED.

**Dated: January 21, 2009**

**/s/ Dennis L. Beck**  
UNITED STATES MAGISTRATE JUDGE