

1  
2  
3  
4  
5  
6  
7IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA11 LATANYA CRAMER, No. C 08-00723 CRB (PR)  
12 Plaintiff, ORDER  
13 v.  
14 S. DICKINSON, et al.,  
15 Defendants.  
16 \_\_\_\_\_/17 Plaintiff, a former prisoner at Valley State Prison (“VSP”), has filed a pro se  
18 complaint for damages under 42 U.S.C. § 1983, alleging a violation of her constitutional  
19 rights in connection with a body cavity search that occurred while Plaintiff was incarcerated.21 **DISCUSSION**22 A. Standard of Review23 Federal courts must engage in a preliminary screening of cases in which prisoners  
24 seek redress from a governmental entity or officer or employee of a governmental entity. 28  
25 U.S.C. § 1915A(a). The court must identify cognizable claims or dismiss the complaint, or  
26 any portion of the complaint, if the complaint "is frivolous, malicious, or fails to state a claim  
27 upon which relief may be granted," or "seeks monetary relief from a defendant who is  
28 immune from such relief." Id. § 1915A(b). Pro se pleadings must be liberally construed,  
however. Balistreri v. Pacifica Police Dep't, 901 F.2d 696, 699 (9th Cir. 1990).

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

5 B. Legal Claims

6 Plaintiff alleges that S. Dickinson, a Correctional Officer at VSP, accused Plaintiff of  
7 having drugs and made her submit to a body cavity search. A digital body cavity search was  
8 conducted by Patricia Johnson, a nurse practitioner at VSP. Plaintiff alleges this search was  
9 illegal, as it was carried out without a court order.

10 A digital body cavity search must “be conducted with reasonable cause and in a  
11 reasonable manner.” Vaughn v. Ricketts, 950 F.2d 1464, 1468-69 (9th Cir. 1991). Such a  
12 search must also serve a legitimate penological interest. Tribble v. Gardner, 860 F.2d 321,  
13 325 (9th Cir. 1988).

14 Plaintiff’s allegations plainly fail to allege that this search was unreasonable on either  
15 count. If a correctional officer had reason to believe that Cramer possessed narcotics, then  
16 there was adequate justification to conduct a search. Cramer alleges that she was falsely  
17 accused, but fails to set forth a basis upon which the Court could conclude that the  
18 correctional officer was unreasonable in believing Cramer possessed narcotics. The search  
19 was carried out by a medical professional, and Plaintiff fails to allege that the nurse was  
20 unreasonable in the manner of the search.

21 Maintaining a drug-free prison facility is a legitimate penological goal. See Tribble,  
22 860 F.2d at 325. Weighing the “significant and legitimate security interests of the institution  
23 against the privacy interests of the inmates,” the Court concludes Plaintiff has not stated a  
24 claim for a violation of her constitutional rights. See Bell v. Wolfish, 441 U.S. 520, 560  
25 (1979).

26 ///

27 ///

28 ///

1

## CONCLUSION

2 For the foregoing reasons, the complaint is DISMISSED with leave to amend for  
3 failure to state a claim under the authority of 28 U.S.C. § 1915A(b).

4

5 **IT IS SO ORDERED.**

6

7 Dated: February 12, 2009

  
CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28