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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

CHARLES A. ROGERS,

Plaintiff,

v.

S. PONCE, et al.,

Defendants.

CASE NO. 1:09-cv-01027-AWI-GBC PC

ORDER ADDRESSING PLAINTIFF’S  
NOTICE TO THE COURT

(Doc. 10)

Plaintiff Charles A. Rogers (“Plaintiff”) is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. The Court screened the first amended complaint and issued an order dismissing, with leave to amend, for failure to state a claim on January 7, 2011. (Doc. 9.) On January 21, 2011, Plaintiff filed a response stating that he was confused because he “had shown the violation of the state regulation.” (Doc. 10.)

A violation of state law alone will not state a cognizable claim under § 1983. Sweaney v. Ada County, Idaho, 119 F.3d 1385, 1391 (9th Cir. 1997). Nor is there any liability under § 1983 for violating prison policy. Cousins v. Lockyer, 568 F.3d 1063, 1070 (9th Cir. 2009) (quoting Gardner v. Howard, 109 F.3d 427, 430 (8th Cir. 1997)). While Plaintiff may have shown a violation of a state regulation, that is insufficient to state a cognizable claim for a violation of his federal rights.

Plaintiff states that he is confused because the Court addressed an Eighth Amendment claim in the order. In his amended complaint, Plaintiff alleged that prison officials were deliberately indifferent. Deliberate indifference is the standard applied to claims of cruel and unusual punishment under the Eighth Amendment. Since Plaintiff was alleging deliberate indifference the

1 Eighth Amendment legal standard was addressed.

2 Plaintiff is advised that his failure to file an amended complaint in compliance with the order  
3 issued on January 7, 2011, will result in the Court finding that he has failed to state a cognizable  
4 claim for a violation of his federal rights. The Court will then recommend that his federal claims  
5 be dismissed, with prejudice, and the action be remanded to state court on any remaining state causes  
6 of action.

7 Accordingly, it is HEREBY ORDERED that Plaintiff file an amended complaint by February  
8 10, 2011, or the federal causes of action will be dismissed, with prejudice, and the action will be  
9 remanded to state court.

10 IT IS SO ORDERED.

11 Dated: January 28, 2011

  
UNITED STATES MAGISTRATE JUDGE

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