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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ANTONIO FAHIE,

Plaintiff,

v.

CSATF CORCORAN APPEALS OFFICE, et al.,

Defendants.

CASE NO. 1:10-CV-00415-AWI-DLB PC

ORDER DISREGARDING PLAINTIFF'S MOTIONS AS MOOT (DOCS. 16, 19, 20)

ORDER DISMISSING COMPLAINT WITH LEAVE TO AMEND FOR FAILURE TO STATE A CLAIM (DOC. 1)

RESPONSE DUE WITHIN 30 DAYS

Screening Order

I. Background

Plaintiff Antonio Fahie ("Plaintiff") is a prisoner in the custody of the California Department of Corrections and Rehabilitation ("CDCR"). Plaintiff is proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed his complaint on March 9, 2010.¹

The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). 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.

¹ Plaintiff filed several motions requesting that the Court issue an order in favor of Plaintiff's action, filed on July 8, 2010, September 20, 2010, and October 20, 2010. (Docs. 16, 19, 20.) As the Court is screening Plaintiff's complaint by this order, Plaintiff's motion are disregarded as moot.

1 § 1915A(b)(1),(2). “Notwithstanding any filing fee, or any portion thereof, that may have been
2 paid, the court shall dismiss the case at any time if the court determines that . . . the action or
3 appeal . . . fails to state a claim upon which relief may be granted.” 28 U.S.C. §
4 1915(e)(2)(B)(ii).

5 A complaint must contain “a short and plain statement of the claim showing that the
6 pleader is entitled to relief” Fed. R. Civ. P. 8(a)(2). Detailed factual allegations are not
7 required, but “[t]hreadbare recitals of the elements of a cause of action, supported by mere
8 conclusory statements, do not suffice.” *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009) (citing
9 *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). Plaintiff must set forth “sufficient factual
10 matter, accepted as true, to ‘state a claim that is plausible on its face.’” *Id.* (quoting *Twombly*,
11 550 U.S. at 555). While factual allegations are accepted as true, legal conclusions are not. *Id.*

12 **II. Summary of Complaint and Violation of Rule 8**

13 Plaintiff was previously incarcerated at California Substance Abuse Treatment Facility
14 (“CSATF”) in Corcoran, California, where the events giving rise to this action occurred.
15 Plaintiff names as Defendants the CSATF Corcoran Appeals office, R. Hall, R. Gomez, Kathleen
16 Allison, Smith, and P. Escobar.

17 Plaintiff requests that the Court examine the attached documents to determine his claims.
18 Plaintiff attaches his various inmate grievances. Plaintiff requests as relief an injunction
19 preventing any transfer to a prison where there is valley fever. Plaintiff also requests a transfer to
20 a level 4 prison closer to his home.

21 The Court declines to review Plaintiff’s documents to determine what Plaintiff’s claims
22 are. Pursuant to Rule 8(a)(2) of the Federal Rules of Civil Procedure, Plaintiff is required to
23 provide “a short and plain statement of the claim showing that the pleader is entitled to relief.”
24 The Court will not mine Plaintiff’s submitted documents to determine what Plaintiff’s claims are.
25 Under § 1983, Plaintiff must demonstrate that each defendant *personally* participated in the
26 deprivation of his rights. *Jones v. Williams*, 297 F.3d 930, 934 (9th Cir. 2002) (emphasis added).
27 Accordingly, Plaintiff’s complaint is dismissed, with leave to file an amended complaint within
28 thirty days.

1 Based on Plaintiff's request for injunctive relief, the Court provides the following legal
2 standards.

3 **A. Eighth Amendment**

4 The Eighth Amendment protects prisoners from inhumane methods of punishment and
5 from inhumane conditions of confinement. *Morgan v. Morgensen*, 465 F.3d 1041, 1045 (9th Cir.
6 2006). Extreme deprivations are required to make out a conditions of confinement claim, and
7 only those deprivations denying the minimal civilized measure of life's necessities are
8 sufficiently grave to form the basis of an Eighth Amendment violation. *Hudson v. McMillian*,
9 503 U.S. 1, 9, 112 S. Ct. 995 (1992) (citations and quotations omitted). In order to state a claim
10 for violation of the Eighth Amendment, the plaintiff must allege facts sufficient to support a
11 claim that prison officials knew of and disregarded a substantial risk of serious harm to the
12 plaintiff. *E.g., Farmer v. Brennan*, 511 U.S. 825, 847 (1994); *Frost v. Agnos*, 152 F.3d 1124,
13 1128 (9th Cir. 1998).

14 **B. Due Process - Prison Transfers**

15 Prisoners have no liberty interest in avoiding being transferred to another prison.
16 *Meachum v. Fano*, 427 U.S. 215, 225-27 (1976).

17 **C. Supervisory Liability**

18 The Supreme Court recently emphasized that the term "supervisory liability," loosely
19 and commonly used by both courts and litigants alike, is a misnomer. *Iqbal*, 129 S. Ct. at 1949.
20 "Government officials may not be held liable for the unconstitutional conduct of their
21 subordinates under a theory of *respondeat superior*." *Id.* at 1948. Rather, each government
22 official, regardless of his or her title, is only liable for his or her own misconduct.

23 When the named defendant holds a supervisory position, the causal link between the
24 defendant and the claimed constitutional violation must be specifically alleged. *See Fayle v.*
25 *Stapley*, 607 F.2d 858, 862 (9th Cir. 1979); *Mosher v. Saalfeld*, 589 F.2d 438, 441 (9th Cir.
26 1978). To state a claim for relief under § 1983 for supervisory liability, plaintiff must allege
27 some facts indicating that the defendant either: personally participated in the alleged deprivation
28 of constitutional rights; knew of the violations and failed to act to prevent them; or promulgated

1 or “implemented a policy so deficient that the policy ‘itself is a repudiation of constitutional
2 rights’ and is ‘the moving force of the constitutional violation.’” *Hansen v. Black*, 885 F.2d 642,
3 646 (9th Cir. 1989) (internal citations omitted); *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir.
4 1989).

5 **III. Conclusion And Order**

6 Plaintiff fails to state any cognizable claims against any Defendants. The Court will
7 provide Plaintiff with an opportunity to file an amended complaint curing the deficiencies
8 identified by the Court in this order. *Noll v. Carlson*, 809 F.2d 1446, 1448-49 (9th Cir. 1987).
9 Plaintiff may not change the nature of this suit by adding new, unrelated claims in his amended
10 complaint. *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007) (no “buckshot” complaints).

11 Plaintiff’s amended complaint should be brief, Fed. R. Civ. P. 8(a), but must state what
12 each named defendant did that led to the deprivation of Plaintiff’s constitutional or other federal
13 rights. *Iqbal*, 129 S. Ct. at 1499. While accepted as true, the “[f]actual allegations must be
14 [sufficient] to raise a right to relief above the speculative level” *Twombly*, 550 U.S. at 555.

15 Finally, Plaintiff is advised that an amended complaint supercedes the original complaint,
16 *Forsyth v. Humana, Inc.*, 114 F.3d 1467, 1474 (9th Cir. 1997); *King v. Atiyeh*, 814 F.2d 565, 567
17 (9th Cir. 1987), and must be “complete in itself without reference to the prior or superceded
18 pleading,” L. R. 220. Plaintiff is warned that “[a]ll causes of action alleged in an original
19 complaint which are not alleged in an amended complaint are waived.” *King*, 814 F.2d at 567
20 (citing to *London v. Coopers & Lybrand*, 644 F.2d 811, 814 (9th Cir. 1981)); accord *Forsyth*,
21 114 F.3d at 1474.

22 Accordingly, based on the foregoing, it is HEREBY ORDERED that:

- 23 1. Plaintiff’s motions, filed July 8, 2010, September 20, 2010, and October 20, 2010,
24 are DISREGARDED as moot;
- 25 2. The Clerk’s Office shall send Plaintiff a complaint form;
- 26 3. Plaintiff’s complaint is dismissed for failure to state a claim, with leave to file an
27 amended complaint within **thirty (30) days** from the date of service of this order;
28 and

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4. If Plaintiff fails to comply with this order, the Court will recommend dismissal of this action for failure to obey a court order and failure to state a claim.

IT IS SO ORDERED.

Dated: December 2, 2010

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE