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

STEVEN A. MARTIN,  
  
Plaintiff,  
  
v.  
  
DERRAL G. ADAMS, ET AL.,  
  
Defendants.

Case No. 1:10-cv-1153-AWI-JLT (PC)  
**ORDER DISMISSING COMPLAINT  
WITH LEAVE TO AMEND**  
  
(Doc. 1)

Steven Martin (“Plaintiff”) is a prisoner proceeding pro se and in forma pauperis in this civil rights action against Defendants D. Adams, J. Nora or J. Mora,<sup>1</sup> T. Cano, B. Silva, T. Norton, M. Seifert, and M. Medina, in their individual and official capacities, pursuant to 42 U.S.C. § 1983. (Doc.1.) Plaintiff commenced this action on June 25, 2010. (Id.)

**I. SCREENING REQUIREMENT**

Because Plaintiff is seeking redress from governmental employees in a civil action, the Court is required to screen his complaint in order to identify cognizable claims. 28 U.S.C. § 1915A(a)-(b). The Court shall “dismiss the complaint, or any portion of the complaint, if the complaint (1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or

<sup>1</sup> It appears that the names J. Nora and J. Mora listed in the Complaint only refer to one person as opposed to two. Plaintiff appears to list both names because he is unsure of the spelling of that Defendant’s last name.

1 (2) seeks monetary relief from a defendant who is immune from such relief.” 28 U.S.C. §  
2 1915A(b); 28 U.S.C. § 1915(e)(2)(B)(i)-(iii).

## 3 **II. PLEADING STANDARDS**

4 “Pro se documents are to be liberally construed” and “must be held to ‘less stringent  
5 standards than formal pleadings drafted by lawyers.’” Estelle v. Gamble, 429 U.S. 97, 106 (1976)  
6 (quoting Haines v. Kerner, 404 U.S. 519, 520-21 (1972)). “[They] can only be dismissed for  
7 failure to state a claim if it appears ‘beyond doubt that the plaintiff can prove no set of facts in  
8 support of his claim which would entitle him to relief.’” (Id.)

9 Under Federal Rule of Civil Procedure 8(a), “[a] pleading that states a claim for relief  
10 must contain: (1) a short and plain statement of the grounds for the court’s jurisdiction, . . . ; (2) a  
11 short and plain statement of the claim showing that the pleader is entitled to relief; and (3) a  
12 demand for the relief sought.” Fed. R. Civ. P. 8(a). Each allegation must be simple, concise, and  
13 direct. Fed. R. Civ. P. 8(d)(1). While a complaint “does not need detailed factual allegations, a  
14 plaintiff’s obligation to provide the ‘grounds’ of his entitlement to relief requires more than labels  
15 and conclusions, and a formulaic recitation of the elements of a cause of action will not do.” Bell  
16 Atl. Corp. v. Twombly, 550 U.S. 544, 555-56 (2007) (internal quotation marks and citations  
17 omitted).

18 In analyzing a pleading, the Court should set conclusory factual allegations aside, accept  
19 all non-conclusory factual allegations as true, and determine whether those non-conclusory  
20 factual allegations accepted as true state a claim for relief that is plausible on its face. Ashcroft v.  
21 Iqbal, 129 S. Ct. 1937, 1949-52 (2009). “The plausibility standard is not akin to a probability  
22 requirement, but it asks for more than a sheer possibility that a defendant has acted unlawfully.”  
23 (Id. at 1949) (internal quotation marks and citation omitted). In determining plausibility, the  
24 Court is permitted “to draw on its judicial experience and common sense.” (Id. at 1950.)

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1 **III. PLAINTIFF’S FACTUAL ALLEGATIONS**

2 **A. Claim One**

3 Plaintiff alleges his wife sent their original marriage certificate<sup>2</sup> via mail to him at  
4 Corcoran State Prison (“CSP-Corcoran”). (Doc. 1 at 4.) On April 10, 2009, he received a  
5 mail/package section form stating that the mail room had “disallowed delivery” of his marriage  
6 certificate pursuant to Operational Procedure 205. (Id. at 5.) Plaintiff contends he checked the  
7 portion of the form which requests that his mail be held pending investigation/appeal. (Id.) On  
8 April 12, 2009, Plaintiff filed a grievance and requested that the marriage certificate be returned  
9 to him. (Id.) On April 29, 2009, Plaintiff’s appeal was granted at the first Level of Review. (Id.)  
10 Plaintiff was told he needed to contact his counselor to pick up the certificate. (Id.) Before  
11 Plaintiff’s First Level Appeal was granted, it was determined that Plaintiff would be sent to the  
12 California State Prison at Centinela (“CSP- Centinela”).

13 On May 15, 2009, Plaintiff was dissatisfied at the need to contact his counselor, so he  
14 filed a Second Level Review to express his displeasure. (Id.) The grievance was denied because  
15 it had previously been granted and because Plaintiff was no longer housed at CSP-Corcoran. (Id.)  
16 Plaintiff was told he needed to see his counselor at CSP-Centinela so he could to obtain the  
17 certificate from his central file. (Id.) After Plaintiff met with his CSP-Centinela counselor, he  
18 was informed that the certificate was not in his central file. (Id.)

19 After learning of this, Plaintiff filed a Petition for Writ of Habeas in state court alleging  
20 First and Fourteenth Amendment violations for the failure to deliver the certificate. (Id.) The  
21 Petition was dismissed. In its informal response to the Petition, CSP-Corcoran informed the state  
22 court that the certificate had been destroyed. (Id. at 6).

23 **B. Claim Two**

24 On April 16, 2009, Plaintiff began the process of being transferred to CSP-Centinela. (Id.  
25 at 6). He was ordered to bring all his personal property for transportation and packing. (Id.)

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26 <sup>2</sup> It seems clear that Plaintiff is mistaken about this. The original marriage certificate must be kept by the  
27 “Hall of Records” or the “County Recorder” in the county in which he was married. He seems to mistake a copy,  
28 which is considered an accurate and authentic copy of the original.

1 Plaintiff alleges that on May 11, 2009, while packing his personal property at CSP-Corcoran,  
2 Defendant J. Nora or J. Mora, along with three other workers, took Plaintiff's Sony CD Radio  
3 Cassette recorder ("CD player"). (*Id.* at 7). Plaintiff values the property at \$200.00 and contends  
4 it was taken in retaliation because Defendant Nora or Mora learned Plaintiff had an on-going  
5 lawsuit against other CSP-Corcoran correctional officers. (*Id.*) Plaintiff submitted his appeal on  
6 May 17, 2009. He was informed he needed to resubmit the appeal with documentation showing  
7 his ownership of the property. (*Id.*) Plaintiff contends he did so on June 5, 2009, but never  
8 received a response. (*Id.*)

#### 9 **IV. DISCUSSION**

10 As to Claim One, Plaintiff alleges First and Fourteenth Amendment due process claims  
11 against, the following defendants at CSP-Corcoran: Warden Derral Adams, B. Silva and T.  
12 Norton (who granted Plaintiff's grievance), T. Cano (who denied his Second Level appeal  
13 because it had already been granted), and M. Medina and M. Seifert (who disallowed delivery of  
14 the certificate from the mail room). Plaintiff also alleges First and Fourteenth Amendment Due  
15 Process violations against Warden Derral Adams, J. Nora or J. Mora, and T. Cano (who  
16 processed his June 5, 2009 appeal).

#### 17 **A. Federal Rule of Civil Procedure 18(a)**

18 Under the Federal Rules of Civil Procedure, "[a] party asserting a claim, counterclaim,  
19 cross-claim, or third-party claim may join, as independent or alternative claims, as many claims  
20 as it has against an opposing party." Fed. R. Civ. P. 18(a). "Thus, multiple claims against a  
21 single party are fine, but Claim A against Defendant 1 should not be joined with unrelated Claim  
22 B against Defendant 2." *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007). The purpose of  
23 splitting such claims into different actions is to avoid the morass that a multiple claim, multiple  
24 defendant suit will cause and to ensure prisoners pay the required filing fees pursuant to the  
25 Prison Litigation Reform Act. (*Id.*)

26 Here, Plaintiff raises two unrelated events. In the first, he claims that five officers at CSP-  
27 Corcoran violated the First and Fourteenth Amendments because they either disallowed delivery  
28 of his marriage certificate or were involved in the appeal process. (Doc. 1 at 4.) In his second

1 claim, Plaintiff asserts that a CSP-Corcoran officer took his CD player from his personal property  
2 after he was sent to CSP-Centinela. (Id. at 7.) Defendant T. Cano and Warden Derral Adams are  
3 common to both claims. However, as to the Warden, there are no facts to demonstrate he was  
4 personally involved in either of the events described in the Complaint. (Doc. 1 at 4-10). The  
5 only allegations against T. Cano are that he processed a grievance related to each of Plaintiff's  
6 two claims. (Id.)

7 Since Plaintiff is not permitted to join unrelated claims in the same action, the claims  
8 against J. Nora or J. Mora related to the second claim must be dismissed without prejudice for  
9 violation of Rule 18(a). If Plaintiff wishes to pursue this claim against J. Nora or J. Mora, he  
10 must file a separate action; however, Plaintiff is strongly encouraged to review the analysis below  
11 regarding "lost property," post-deprivation remedies, and Inmate Grievances and only file an  
12 action in this Court if he believes, in good faith, he can state a cognizable federal claim.

13 **B. Lost Property**

14 The Due Process Clause of the Fourteenth Amendment protects individuals from state  
15 deprivations of life, liberty, or property without due process of law. With respect to a prisoner's  
16 property, the United States Supreme Court has held that "an unauthorized intentional deprivation  
17 of property" by a prison official constitutes a violation of due process if a meaningful post-  
18 deprivation remedy for the loss is unavailable. Hudson v. Palmer, 468 U.S. 517, 533 (1984)  
19 (emphasis added). If, however, a prison official merely acts negligently in losing a prisoner's  
20 property, there is no due process violation. *See* Daniels v. Williams, 474 U.S. 327, 328 (1986)  
21 ("[T]he Due Process Clause is simply not implicated by a negligent act of an official causing  
22 unintended loss of or injury to life, liberty, or property.") (emphasis in the original).

23 Here, Plaintiff appears to name as defendants every individual who corresponded with  
24 him in attempting to get the certificate returned to him. He names the Warden Derral Adams  
25 solely because Defendant Adams was the warden at CSP-Corcoran. Plaintiff names M. Medina  
26 and M. Seifert because they disallowed delivery of the certificate from the mail room; however,  
27 their actions were addressed when Plaintiff's First Level Appeal was granted. Finally, Plaintiff  
28 inexplicably names B. Silva and T. Norton because they granted Plaintiff's First Level Appeal,

1 but required him to retrieve the document through his counselor. (Doc. 1 at 5). Plaintiff does not  
2 allege facts to show that any of the named defendants destroyed his marriage certificate. (Id. at 4-  
3 6.) In fact, Plaintiff doesn't even seem to believe that the document was destroyed. (Id. at 6.)  
4 Even if the Court accepted the factual allegations against each of these defendants as true,  
5 Plaintiff has not demonstrated that any of the Defendants acted deliberately to destroy or withhold  
6 his marriage certificate. (Doc. 1.) As a result, Plaintiff's allegations fail to state a cognizable due  
7 process claim. *See Daniels*, 474 U.S. at 328.

8 Even assuming that a defendant intentionally deprived Plaintiff of his property, Plaintiff's  
9 complaint still fails to state a cognizable claim. There is no indication that, following the granting  
10 of his appeal, Plaintiff's marriage certificate was destroyed or continued to be withheld because  
11 of an established state procedure. Thus, under the Supreme Court's decision in Hudson,  
12 Defendants actions constitute a violation of due process only if a meaningful post-deprivation  
13 remedy for Plaintiff's loss is unavailable. *See Hudson*, 468 U.S. at 533. Under these  
14 circumstances, Plaintiff has a meaningful post-deprivation remedy. Plaintiff may file suit in state  
15 court pursuant to California Government Code §§ 900, et seq., which provides a remedy for torts  
16 committed by public employees. *See Parratt v. Taylor*, 451 U.S. 527, 539 (1981) (“[P]ost-  
17 deprivation remedies made available by the State can satisfy the Due Process Clause.”); Arnold v.  
18 Williams, No. CIV S-08-28886 DAD P, 2009 WL 3710522, at \*3 (E.D. Cal. Oct. 28, 2009)  
19 (California Government Code §§ 900, et seq. provide a sufficient post-deprivation remedy for the  
20 purposes of due process).

21 **C. Plaintiff's Grievances**

22 To the extent Plaintiff alleges that Defendants either denied or failed to timely respond to  
23 his inmate complaints and requests regarding his lost property, Plaintiff is advised that such  
24 allegations are insufficient to demonstrate a constitutional violation. In the Ninth Circuit, it is  
25 well-established that “inmates lack a separate constitutional entitlement to a specific prison  
26 grievance procedure.” Ramirez v. Galaza, 334 F.3d 850, 860 (9th Cir. 2003) (citing Mann v.  
27 Adams, 855 F.2d 639, 640 (9th Cir. 1988)). Therefore, when a prison official denies, screens-out,  
28 or ignores an inmate's grievance, the prison official does not deprive the inmate of any

1 constitutional right. *See, e.g., Wright v. Shannon*, No. CIV F-05-1485 LJO YNP PC, 2010 WL  
2 445203, at \*5 (E.D. Cal. Feb. 2, 2010) (plaintiff's allegation that prison officials denied or  
3 ignored his inmate appeals failed to state a cognizable claim under the First Amendment); *Walker*  
4 *v. Vazquez*, No. CIV F-09-0931 YNP PC, 2009 WL 5088788, at \*6-7 (E.D. Cal. Dec. 17, 2009)  
5 (plaintiff's allegation that prison officials failed to timely process his inmate appeals failed to  
6 state a cognizable claim); *Towner v. Knowles*, No. CIV S-08-2833 LKK EFB P, 2009 WL  
7 4281999, at \*2 (E.D. Cal. Nov. 20, 2009) (plaintiff's allegation that prison officials screened-out  
8 his inmate grievances without any basis failed to show a deprivation of federal rights).  
9 Accordingly, any allegation by Plaintiff against Defendants for failing to respond to his  
10 grievances fails to state a cognizable claim.

### 11 **C. Eleventh Amendment Immunity**

12 The Eleventh Amendment prohibits federal courts from hearing suits brought against an  
13 unconsenting state. *Brooks v. Sulphur Springs Valley Elec. Coop.*, 951 F.2d 1050, 1053 (9th Cir.  
14 1991). It bars suits against state agencies as well as those where the state itself is named as a  
15 defendant. *See Natural Resources Defense Council v. California Department of Transportation*,  
16 96 F.3d 420, 421 (9th Cir. 1996); *Brooks*, 951 F.2d at 1053; *Taylor v. List*, 880 F.2d 1040, 1045  
17 (9th Cir. 1989) (concluding that Nevada Department of Prisons was a state agency entitled to  
18 Eleventh Amendment immunity); *Mitchell v. Los Angeles Community College District*, 861 F.2d  
19 198, 201 (9th Cir. 1989).

20 The immunity applies whether the relief sought is money damages or injunctive relief.  
21 *Pennhurst State School & Hosp. v. Halderman*, 465 U.S. 89, 100 (1984); *Krainski v. Nev. ex rel.*  
22 *Bd. of Regents of Nev. Sys. of Higher Educ.*, 616 F.3d 963, 967 (9th Cir. 2010) ("The Eleventh  
23 Amendment bars suits against the State or its agencies for all types of relief, absent unequivocal  
24 consent by the state."). It applies also in actions brought against an officer of the state in his  
25 official capacity. (*Id.*)

26 Here, Plaintiff names all Defendants in their official capacities. (Doc. 1.) Thus, the action  
27 in this regard cannot stand and is barred by the Eleventh Amendment.

### 28 **D. Leave to Amend**





1           4.       Plaintiff is granted 21 days from the date of service of this order to file an  
2 amended complaint that complies with the requirements of the Federal Rules of Civil Procedure  
3 and the Local Rules; the amended complaint must bear the docket number assigned to this case  
4 and must be labeled “First Amended Complaint”;

5           4.       The Clerk’s Office shall send Plaintiff a civil rights complaint form.

6       **Plaintiff is advised that his failure to comply with this order will result in a recommendation**  
7 **that the action be dismissed.**

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10 IT IS SO ORDERED.

11       Dated: April 12, 2012

/s/ Jennifer L. Thurston  
UNITED STATES MAGISTRATE JUDGE

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