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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 RUBEN MIGUEL CHAVIRA,

12 Plaintiff,

13 vs.

14 R. RUTH, et al.,

15 Defendants.  
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1:12-cv-01226 GSA PC

ORDER DISMISSING COMPLAINT AND  
GRANTING PLAINTIFF LEAVE TO FILE  
AN AMENDED COMPLAINT

AMENDED COMPLAINT DUE  
IN THIRTY DAYS

19 **I. Screening Requirement**

20 Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights  
21 action pursuant to 42 U.S.C. § 1983. Plaintiff has consented to magistrate judge jurisdiction  
22 pursuant to 28 U.S.C. § 636(c).<sup>1</sup>

23 The Court is required to screen complaints brought by prisoners seeking relief against a  
24 governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a).  
25 The Court must dismiss a complaint or portion thereof if the prisoner has raised claims that are  
26 legally “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or  
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28 <sup>1</sup> Plaintiff filed a consent to proceed before a magistrate judge on January 9, 2013 (ECF No 16).

1 that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. §  
2 1915A(b)(1),(2). “Notwithstanding any filing fee, or any portion thereof, that may have been  
3 paid, the court shall dismiss the case at any time if the court determines that . . . the action or  
4 appeal . . . fails to state a claim upon which relief may be granted.” 28 U.S.C. §  
5 1915(e)(2)(B)(ii).

6 “Rule 8(a)’s simplified pleading standard applies to all civil actions, with limited  
7 exceptions,” none of which applies to section 1983 actions. Swierkewicz v. Sorema N.A., 534  
8 U.S. 506, 512 (2002); Fed. R. Civ. P. 8(a). Pursuant to Rule 8(a), a complaint must contain “a  
9 short and plain statement of the claim showing that the pleader is entitled to relief . . .” Fed.  
10 R.Civ. P. 8(a). “Such a statement must simply give the defendant fair notice of what the  
11 plaintiff’s claim is and the grounds upon which it rests.” Swierkewicz, 534 U.S. at 512.  
12 However, “the liberal pleading standard . . . applies only to a plaintiff’s factual allegations.”  
13 Nietze v. Williams, 490 U.S. 319, 330 n. 9 (1989). “[A] liberal interpretation of a civil rights  
14 complaint may not supply essential elements of the claim that were not initially pled.” Bruns v.  
15 Nat’l Credit Union Admin., 122 F.3d 1251, 1257 (9<sup>th</sup> Cir. 1997)(quoting Ivey v.Bd. of Regents,  
16 673 F.2d 266, 268 (9<sup>th</sup> Cir. 1982)).

## 17 **II. Plaintiff’s Claims**

18 Plaintiff, an inmate in the custody of the California Department of Corrections and  
19 Rehabilitation (CDCR) at the California Correctional Institution at Tehachapi, brings this  
20 action against defendant correctional officials employed by the CDCR at Kern Valley State  
21 Prison. Plaintiff names as defendants Appeals Coordinator R. Ruth, Mental Health Care  
22 Services, an unidentified Staff Officer, and Kern Valley State Prison.

23 Plaintiff’s statement of claim is vague and rambling. Plaintiff references the process of  
24 administrative review of his inmate grievances, and also makes reference to his health care.  
25 Plaintiff does not specifically identify any conduct by any individual defendant.

26 Under section 1983, Plaintiff must link the named defendants to the participation in  
27 the violation at issue. Ashcroft v. Iqbal, 556 U.S. 662, 676-77 (2009); Simmons v. Navajo  
28 County, Ariz., 609 F.3d 1011, 1020-21 (9<sup>th</sup> Cir. 2010). Liability may not be imposed under a

theory of respondeat superior, and there must exist some causal connection between the conduct of each named defendant and the violation at issue. Iqbal, 556 U.S. at 676-77; Lemire v. California Dep't of Corr. and Rehab., 726 F.3d 1062, 1074-75 (9<sup>th</sup> Cir. 2013); Starr v. Baca, 652 F.3d 1202, 1205-08 (9<sup>th</sup> Cir. 2011), cert. denied, 132 S.Ct. 2101 (2012). Plaintiff has failed to do so here. The complaint must therefore be dismissed. Plaintiff will, however, be granted leave to file an amended complaint.

Plaintiff need not, however, set forth legal arguments in support of his claims. In order to hold an individual defendant liable, Plaintiff must name the individual defendant, describe where that defendant is employed and in what capacity, and explain how that defendant acted under color of state law. Plaintiff should state clearly, in his own words, what happened. Plaintiff must describe what each defendant, *by name*, did to violate the particular right described by Plaintiff.

### **III. Conclusion**

The Court has screened Plaintiff's complaint and finds that it does not state any claims upon which relief may be granted under section 1983. The Court will provide Plaintiff with the opportunity to file an amended complaint curing the deficiencies identified by the Court in this order. Noll v. Carlson, 809 F.2d 1446, 1448-49 (9<sup>th</sup> Cir. 1987). Plaintiff is cautioned that he may not change the nature of this suit by adding new, unrelated claims in his amended complaint.

Plaintiff's amended complaint should be brief, Fed. R. Civ. P. 8(a), but must state what each named defendant did that led to the deprivation of Plaintiff's constitutional or other federal rights, Hydrick, 500 F.3d at 987-88. Although accepted as true, the "[f]actual allegations must be [sufficient] to raise a right to relief above the speculative level . . . ." Bell Atlantic v. Twombly, 550 U.S. 544, 554 (2007)(citations omitted).

Finally, Plaintiff is advised that an amended complaint supersedes the original complaint, Forsyth v. Humana, Inc., 114 F.3d 1467, 1474 (9<sup>th</sup> Cir. 1997); King v. Atiyeh, 814 F.2d 565, 567 (9<sup>th</sup> Cir. 1987), and must be "complete and in and of itself without reference to the prior or superseded pleading." Local Rule 15-220. Plaintiff is warned that "[a]ll causes of

1 action alleged in an original complaint which are not alleged in an amended complaint are  
2 waived.” King, 814 F.2d at 567 (citing to London v. Coopers & Lybrand, 644 F.2d 811, 814  
3 (9<sup>th</sup> Cir. 1981)).

4 Accordingly, IT IS HEREBY ORDERED that:

5 1. Plaintiff’s complaint is dismissed, with leave to amend, for failure to state a  
6 claim;

7 2. The Clerk’s Office shall send to Plaintiff a complaint form;

8 3. Within **thirty** days from the date of service of this order, Plaintiff shall file an  
9 amended complaint;

10 4. Plaintiff may not add any new, unrelated claims to this action via his amended  
11 complaint and any attempt to do so will result in an order striking the amended complaint; and

12 5. If Plaintiff fails to file an amended complaint, the Court will dismiss this action,  
13 with prejudice, for failure to state a claim.

14  
15 IT IS SO ORDERED.

16 Dated: **April 9, 2015**

**/s/ Gary S. Austin**  
UNITED STATES MAGISTRATE JUDGE