

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

RUBEN MIGUEL CHAVIRA,

Plaintiff,

vs.

R. RUTH, et al.,

Defendants.

1:12-cv-01226 GSA PC

ORDER DISMISSING COMPLAINT AND
GRANTING PLAINTIFF LEAVE TO FILE
AN AMENDED COMPLAINTAMENDED COMPLAINT DUE
IN THIRTY DAYS**I. Screening Requirement**

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

¹ 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. Swierkiewicz 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.” Swierkiewicz, 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 (9th Cir. 1997)(quoting Ivey v. Bd. of Regents,
16 673 F.2d 266, 268 (9th 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 (9th Cir. 2010). Liability may not be imposed under a

1 theory of respondeat superior, and there must exist come causal connection between the
2 conduct of each named defendant and the violation at issue. Iqbal, 556 U.S. at 676-77; Lemire
3 v. California Dep’t of Corr. and Rehab., 726 F.3d 1062, 1074-75 (9th Cir. 2013); Starr v. Baca,
4 652 F.3d 1202, 1205-08 (9th Cir. 2011), cert. denied, 132 S.Ct. 2101 (2012). Plaintiff has failed
5 to do so here. The complaint must therefore be dismissed. Plaintiff will, however, be granted
6 leave to file an amended complaint.

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

13 **III. Conclusion**

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

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

25 Finally, Plaintiff is advised that an amended complaint supersedes the original
26 complaint, Forsyth v. Humana, Inc., 114 F.3d 1467, 1474 (9th Cir. 1997); King v. Atiyeh, 814
27 F.2d 565, 567 (9th Cir. 1987), and must be “complete and in and of itself without reference to
28 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 (9th 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 IT IS SO ORDERED.

15 Dated: April 9, 2015

/s/ Gary S. Austin

16 UNITED STATES MAGISTRATE JUDGE