

1 malicious,” “fails to state a claim upon which relief may be granted,” or that seek
2 monetary relief from a defendant who is immune from such relief. 28 U.S.C. §
3 1915(e)(2)(B). “Notwithstanding any filing fee, or any portion thereof, that may have
4 been paid, the court shall dismiss the case at any time if the court determines that . . .
5 the action or appeal . . . fails to state a claim on which relief may be granted.” 28 U.S.C.
6 § 1915(e)(2)(B)(ii).

7 Section 1983 “provides a cause of action for the ‘deprivation of any rights,
8 privileges, or immunities secured by the Constitution and laws’ of the United States.”
9 Wilder v. Virginia Hosp. Ass’n, 496 U.S. 498, 508 (1990) (quoting 42 U.S.C. § 1983).
10 Section 1983 is not itself a source of substantive rights, but merely provides a method for
11 vindicating federal rights conferred elsewhere. Graham v. Connor, 490 U.S. 386, 393-94
12 (1989).

13 **III. SUMMARY OF FIRST AMENDED COMPLAINT**

14 The First Amended Complaint names the following officials at Coalinga State
15 Hospital as Defendants: (1) Samantha Perryman, Unit Supervisor; (2) Senait Endile; (3)
16 Stefeni Vally; and (4) Audrey King, Executive Director.

17 Plaintiff alleges the following:

18 On February 21, 2013, during morning medication distribution, Defendant Endile
19 intentionally gave Plaintiff a drug that was not a normal part of his prescription. The new
20 medication caused severe and painful side effects including an unusually rapid
21 heartbeat. (Compl. at 4.) Defendant Endile provided the medication with the intent to
22 cause harm; she acted on behalf of Plaintiff’s victims, individuals who had not been
23 avenged or compensated. (Id. at 5.)

24 Defendant Vally assigned Defendant Endile to the medication window with
25 knowledge of Endile’s hostility towards Plaintiff. Defendant Vally also failed to provide
26 medical care once Plaintiff began suffering side effects. Plaintiff filed a detainee
27 grievance complaining of the mistreatment and of ongoing side effects. Defendant King
28 reviewed Plaintiff’s grievance at the final administrative level and took no remedial

1 action. (Id.)

2 **IV. ANALYSIS**

3 **A. Section 1983**

4 To state a claim under Section 1983, a plaintiff must allege two essential
5 elements: (1) that a right secured by the Constitution or laws of the United States was
6 violated and (2) that the alleged violation was committed by a person acting under the
7 color of state law. See West v. Atkins, 487 U.S. 42, 48 (1988); Ketchum v. Alameda
8 Cnty., 811 F.2d 1243, 1245 (9th Cir. 1987).

9 A complaint must contain “a short and plain statement of the claim showing that
10 the pleader is entitled to relief” Fed. R. Civ. P. 8(a)(2). Detailed factual allegations
11 are not required, but “[t]hreadbare recitals of the elements of a cause of action,
12 supported by mere conclusory statements, do not suffice.” Ashcroft v. Iqbal, 129 S.Ct.
13 1937, 1949 (2009) (citing Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007)).
14 Plaintiff must set forth “sufficient factual matter, accepted as true, to ‘state a claim that is
15 plausible on its face.’” Id. Facial plausibility demands more than the mere possibility
16 that a defendant committed misconduct and, while factual allegations are accepted as
17 true, legal conclusions are not. Id. at 1949-50.

18 **B. Failure to Protect**

19 As a civil detainee, Plaintiff is entitled to treatment more considerate than that
20 afforded pretrial detainees or convicted criminals. Jones v. Blanas, 393 F.3d 918, 931-
21 32 (9th Cir. 2004). Plaintiff’s right to constitutionally adequate conditions of confinement
22 is protected by the substantive component of the Due Process Clause. Youngberg v.
23 Romeo, 457 U.S. 307, 315 (1982).

24 A determination whether Plaintiff’s rights were violated requires “balancing of his
25 liberty interests against the relevant state interests.” Youngberg, 457 U.S. at 321.
26 Plaintiff is “entitled to more considerate treatment and conditions of confinement than
27 criminals whose conditions of confinement are designed to punish,” but the Constitution
28 requires only that courts ensure that professional judgment was exercised. Youngberg,

1 457 U.S. at 321-22. A “decision, if made by a professional, is presumptively valid;
2 liability may be imposed only when the decision by the professional is such a substantial
3 departure from accepted professional judgment, practice, or standards as to
4 demonstrate that the person responsible actually did not base the decision on such a
5 judgment.” Id. at 322-23; cf. Clouthier v. County of Contra Costa, 591 F.3d 1232, 1243-
6 44 (9th Cir. 2010) (rejecting the Youngberg standard and applying the deliberate
7 indifference standard to a pretrial detainee’s right to medical care, and noting that pretrial
8 detainees, who are confined to ensure presence at trial, are not similarly situated to
9 those civilly committed). The professional judgment standard is an objective standard
10 and it equates “to that required in ordinary tort cases for a finding of conscious
11 indifference amounting to gross negligence.” Ammons v. Washington Dep’t of Soc. &
12 Health Servs., 648 F.3d 1020, 1029 (9th Cir. 2011), cert. denied, 132 S.Ct. 2379 (2012)
13 (citations and internal quotation marks omitted).

14 The amended complaint asserts that Defendant Endile poisoned Plaintiff on
15 behalf of Plaintiff’s victims. The remaining Defendants allegedly either failed to prevent
16 the poisoning or failed to take steps to mitigate the harm afterward.

17 Plaintiff has a liberty interest in safe conditions of confinement protected
18 substantively by the Due Process Clause. Youngberg, 457 U.S. at 315. Due process
19 requires that he receive care that is professionally acceptable. Id. at 321. However,
20 Plaintiff’s allegations are not sufficient to state a claim.

21 Pursuant to Rule 8(a) of the Federal Rules of Civil Procedure, the complaint or
22 amended complaint must contain a “short and plain statement of the claim showing that
23 the pleader is entitled to relief.” The pleading standard announced by Rule 8 “demands
24 more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” Iqbal, 129
25 S.Ct. at 1949. Plaintiff’s attribution of animus to Defendant Endile’s behavior is
26 unsupported by factual allegations. Naked assertions devoid of factual enhancement do
27 not suffice to state a claim. Id. Stated another way, while the Court is required to accept
28 Plaintiff’s allegations as to Defendant Endile’s actions, it need not do the same with

1 regard to his unsupported conclusion that Defendant Endile acted with the intent to harm
2 as retribution for Plaintiff's offenses. Id. Speculative, conclusory allegations aside, the
3 First Amended Complaint does not demonstrate that any of the Defendants exhibited a
4 conscious indifference amounting to gross negligence. See Ammons, 648 F.3d at 1029.

5 The Court previously identified the above-described pleading deficiency and
6 advised Plaintiff of the need to provide sufficient factual allegations to enable the Court
7 to evaluate whether there was a basis for his suppositions regarding Defendant's
8 motivations. He has failed to do so or give any indication that he is capable of doing so.
9 There is no reason to believe that re-instructing and giving further leave to amend would
10 serve any useful purpose. Accordingly, Plaintiff's claims are dismissed with prejudice.

11 **V. CONCLUSION AND ORDER**

12 For the reasons stated above, the Court finds that Plaintiff's First Amended
13 Complaint fails to state a claim upon which relief may be granted and that leave to
14 amend would be futile. See Noll v. Carson, 809 F.2d 1446, 1448-49 (9th Cir. 1987).
15 Accordingly, Plaintiff's First Amended Complaint is DISMISSED WITH PREJUDICE for
16 failure to state a claim. The Clerk shall close the case.

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19 IT IS SO ORDERED.

20 Dated: September 27, 2013

1st Michael J. Seng
UNITED STATES MAGISTRATE JUDGE