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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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DAVID ESTRADA,) Case No.: 1:13cv00919 DLB (PC)
Plaintiff,)
v.) ORDER DISMISSING COMPLAINT
TASSEY, et al.,) WITH LEAVE TO AMEND
Defendants.)

)

Plaintiff David Estrada (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action. Plaintiff filed his complaint on June 17, 2013. He names approximately 25 Defendants.

A. LEGAL STANDARD

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.

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1 § 1915A(b)(1),(2). “Notwithstanding any filing fee, or any portion thereof, that may have been paid,
2 the court shall dismiss the case at any time if the court determines that . . . the action or appeal . . . fails
3 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 pleader is
6 entitled to relief” Fed. R. Civ. P. 8(a)(2). Detailed factual allegations are not required, but
7 “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements,
8 do not suffice.” Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949 (2009) (citing Bell Atl. Corp. v. Twombly,
9 550 U.S. 544, 555 (2007)). Plaintiff must set forth “sufficient factual matter, accepted as true, to ‘state
10 a claim that is plausible on its face.’” Id. (quoting Twombly, 550 U.S. at 555). While factual
11 allegations are accepted as true, legal conclusions are not. Id.

12 Section 1983 provides a cause of action for the violation of Plaintiff’s constitutional or other
13 federal rights by persons acting under color of state law. Nurre v. Whitehead, 580 F.3d 1087, 1092
14 (9th Cir 2009); Long v. County of Los Angeles, 442 F.3d 1178, 1185 (9th Cir. 2006); Jones v.
15 Williams, 297 F.3d 930, 934 (9th Cir. 2002). Plaintiff’s allegations must link the actions or omissions
16 of each named defendant to a violation of his rights; there is no respondeat superior liability under
17 section 1983. Iqbal, 556 U.S. at 676-77; Simmons v. Navajo County, Ariz., 609 F.3d 1011, 1020-21
18 (9th Cir. 2010); Ewing v. City of Stockton, 588 F.3d 1218, 1235 (9th Cir. 2009); Jones, 297 F.3d at
19 934. Plaintiff must present factual allegations sufficient to state a plausible claim for relief. Iqbal, 556
20 U.S. at 678-79; Moss v. U.S. Secret Service, 572 F.3d 962, 969 (9th Cir. 2009). The mere possibility
21 of misconduct falls short of meeting this plausibility standard. Iqbal, 556 U.S. at 678; Moss, 572 F.3d
22 at 969.

23 **B. DISCUSSION**

24 As explained above, Rule 8 requires “a short and plain statement of the claim showing that the
25 pleader is entitled to relief” Fed. R. Civ. P. 8(a)(2). The court may dismiss a complaint with the
26 factual elements of a cause of action scattered throughout and not organized into a “short and plain
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1 statement of the claim" for failure to satisfy Rule 8(a). Sparling v. Hoffman Constr. Co., 864 F.2d
2 635, 640 (9th Cir.1988); McHenry v. Renne, 84 F.3d 1172 (9th Cir.1996).

3 Plaintiff is incarcerated in Corcoran State Prison, where it appears the events at issue occurred.
4 His complaint, however, is comprised of 59 hand-written pages and approximately 75 pages of
5 exhibits. The sheer length, when combined with Plaintiff's detailed, narrative style of writing, makes
6 it extremely difficult to discern his actual allegations. While the Court appreciates Plaintiff's attempt
7 at providing sufficient details, the Court will not extract Plaintiff's claims from his lengthy writings
8 and numerous exhibits.

9 Accordingly, Plaintiff's complaint must be dismissed with leave to amend. If Plaintiff amends
10 his complaint, he must submit a complaint that complies with Rule 8. He must state his claims plainly
11 and succinctly, and be clear in his requested relief.

12 **C. CONCLUSION AND ORDER**

13 Plaintiff's complaint fails to state a claim upon which relief may be granted under section
14 1983. The Court will provide Plaintiff with the opportunity to file an amended complaint, as Plaintiff
15 may be able to cure some of the deficiencies. Akhtar v. Mesa, 698 F.3d 1202, 1212-13 (9th Cir.
16 2012); Lopez v. Smith, 203 F.3d 1122, 1130 (9th Cir. 2000); Noll v. Carlson, 809 F.2d 1446, 1448-49
17 (9th Cir. 1987). Plaintiff may not change the nature of this suit by adding new, unrelated claims in his
18 amended complaint. George, 507 F.3d at 607.

19 Plaintiff's amended complaint should be brief, Fed. R. Civ. P. 8(a), but it must state what each
20 named defendant did that led to the deprivation of Plaintiff's constitutional rights, Iqbal, 556 U.S. at
21 676-77. Although accepted as true, the "[f]actual allegations must be [sufficient] to raise a right to
22 relief above the speculative level. . . ." Twombly, 550 U.S. at 555 (citations omitted).
23 Finally, an amended complaint supercedes the original complaint, Lacey v. Maricopa County, 693
24 F.3d 896, 907 n.1 (9th Cir. 2012) (en banc), and it must be "complete in itself without reference to the
25 prior or superceded pleading," Local Rule 220.

Accordingly, it is HEREBY ORDERED that:

1. Plaintiff's complaint is dismissed, with leave to amend, for failure to state a claim under section 1983;

2. The Clerk's Office shall send Plaintiff a civil rights complaint form;

3. Within thirty (30) days from the date of service of this order, Plaintiff shall file an amended complaint; and

4. If Plaintiff fails to file an amended complaint in compliance with this order, this action will be dismissed, with prejudice, for failure to state a claim under section 1983.

IT IS SO ORDERED.

Dated: July 8, 2013

/s/ Dennis L. Beck

UNITED STATES MAGISTRATE JUDGE