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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ARCHIE CRANFORD,

Plaintiff,

v.

KIM WYATT,

Defendant.

Case No. 1:14-cv-00136 DLB PC

ORDER DISMISSING COMPLAINT WITH
LEAVE TO AMEND

THIRTY-DAY DEADLINE

Plaintiff Archie Cranford (“Plaintiff”) is a civil detainee proceeding pro se and in forma pauperis in this civil action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on January 31, 2014. He names Kim Wyatt as Defendant. Plaintiff consented to the jurisdiction of a magistrate judge on February 7, 2014.

A. SCREENING REQUIREMENT

The Court is required to screen Plaintiff’s complaint and dismiss the case, in whole or in part, if the Court determines it fails to state a claim upon which relief may be granted. 28 U.S.C. § 1915(e)(2)(B)(ii). A complaint must contain “a short and plain statement of the claim showing that the pleader is entitled to relief. . . .” Fed. R. Civ. P. 8(a)(2). Detailed factual allegations are not required, but “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice,” Ashcroft v. Iqbal, 556 U.S. 662, 678, 129 S.Ct. 1937 (2009)

1 (citing Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 127 S.Ct. 1955 (2007)), and courts “are
2 not required to indulge unwarranted inferences,” Doe I v. Wal-Mart Stores, Inc., 572 F.3d 677, 681
3 (9th Cir. 2009) (internal quotation marks and citation omitted). While factual allegations are
4 accepted as true, legal conclusions are not. Iqbal, 556 U.S. at 678.

5 Pro se litigants are entitled to have their pleadings liberally construed and to have any doubt
6 resolved in their favor, Wilhelm v. Rotman, 680 F.3d 1113, 1121-23 (9th Cir. 2012); Hebbe v. Pliler,
7 627 F.3d 338, 342 (9th Cir. 2010), but Plaintiff’s claims must be facially plausible to survive
8 screening, which requires sufficient factual detail to allow the Court to reasonably infer that each
9 named defendant is liable for the misconduct alleged, Iqbal, 556 U.S. at 678 (quotation marks
10 omitted); Moss v. U.S. Secret Service, 572 F.3d 962, 969 (9th Cir. 2009). The sheer possibility that
11 a defendant acted unlawfully is not sufficient, and mere consistency with liability falls short of
12 satisfying the plausibility standard. Iqbal, 556 U.S. at 678 (quotation marks omitted); Moss, 572
13 F.3d at 969.

14 **B. SUMMARY OF PLAINTIFF’S ALLEGATIONS**

15 Plaintiff is currently detained at Coalinga State Hospital. In the space provided for his
16 statement of claim, Plaintiff directs the Court’s attention to “Added Sheet.” However, nothing is
17 attached to the complaint. In the space provided for relief requested, Plaintiff complains that
18 Defendant is failing to assist Plaintiff, and in some instances bathe Plaintiff, which Plaintiff
19 maintains Defendant is required by law to do.

20 Plaintiff requests injunctive relief which would require Defendant to assist and bathe
21 Plaintiff.

22 **C. DISCUSSION**

23 Section 1983 provides a cause of action for the violation of Plaintiff’s constitutional or other
24 federal rights by persons acting under color of state law. Nurre v. Whitehead, 580 F.3d 1087, 1092
25 (9th Cir 2009); Long v. County of Los Angeles, 442 F.3d 1178, 1185 (9th Cir. 2006); Jones v.
26 Williams, 297 F.3d 930, 934 (9th Cir. 2002). As a civil detainee, Plaintiff is entitled to treatment
27 more considerate than that afforded pretrial detainees or convicted criminals. Jones v. Blanas, 393
28 F.3d 918, 931-32 (9th Cir. 2004). Plaintiff’s right to constitutionally adequate conditions of

1 confinement is protected by the substantive component of the Due Process Clause. Youngberg v.
2 Romeo, 457 U.S. 307, 315, 102 S.Ct. 2452 (1982).

3 A determination whether Plaintiff's rights were violated requires "balancing of his liberty
4 interests against the relevant state interests." Youngberg, 457 U.S. at 321. Plaintiff is "entitled to
5 more considerate treatment and conditions of confinement than criminals whose conditions of
6 confinement are designed to punish," but the Constitution requires only that courts ensure that
7 professional judgment was exercised. Youngberg, 457 U.S. at 321-22. A "decision, if made by a
8 professional, is presumptively valid; liability may be imposed only when the decision by the
9 professional is such a substantial departure from accepted professional judgment, practice, or
10 standards as to demonstrate that the person responsible actually did not base the decision on such a
11 judgment." Id. at 322-23; compare Clouthier v. County of Contra Costa, 591 F.3d 1232, 1243-44
12 (9th Cir. 2010) (rejecting the Youngberg standard and applying the deliberate indifference standard
13 to a pretrial detainee's right to medical care, and noting that pretrial detainees, who are confined to
14 ensure presence at trial, are not similarly situated to those civilly committed). The professional
15 judgment standard is an objective standard and it equates "to that required in ordinary tort cases for a
16 finding of conscious indifference amounting to gross negligence." Ammons v. Washington Dep't of
17 Soc. & Health Servs., 648 F.3d 1020, 1029 (9th Cir. 2011), *cert. denied*, 132 S.Ct. 2379 (2012)
18 (citations and internal quotation marks omitted).

19 Plaintiff's vague allegations fall short of supporting a claim that his federal rights were
20 violated. Youngberg, 457 U.S. at 322-23. The mere fact that Defendant is not "assisting" Plaintiff or
21 personally bathing Plaintiff does not suffice to support a claim under section 1983. Id.

22 **D. CONCLUSION AND ORDER**

23 Plaintiff's complaint fails to state a claim upon which relief may be granted under section
24 1983. In an abundance of caution, the Court will provide Plaintiff with an opportunity to file an
25 amended complaint. Akhtar v. Mesa, 698 F.3d 1202, 1212-13 (9th Cir. 2012); Lopez v. Smith, 203
26 F.3d 1122, 1130 (9th Cir. 2000).

27 Plaintiff's amended complaint should be brief, Fed. R. Civ. P. 8(a), but it must state what
28 each named Defendant did that led to the deprivation of Plaintiff's federal rights and liability may

1 not be imposed on supervisory personnel under the theory of mere *respondeat superior*, Iqbal, 556
2 U.S. at 676-77; Starr v. Baca, 652 F.3d 1202, 1205-07 (9th Cir. 2011), *cert. denied*, 132 S.Ct. 2101
3 (2012). Although accepted as true, the “[f]actual allegations must be [sufficient] to raise a right to
4 relief above the speculative level. . . .” Twombly, 550 U.S. at 555 (citations omitted).

5 Finally, an amended complaint supercedes the original complaint, Lacey v. Maricopa
6 County, 693 F.3d 896, 907 n.1 (9th Cir. 2012) (en banc), and it must be “complete in itself without
7 reference to the prior or superceded pleading,” Local Rule 220.

8 Accordingly, it is HEREBY ORDERED that:

- 9 1. Plaintiff’s complaint is dismissed, with leave to amend, for failure to state a claim
10 under section 1983;
- 11 2. The Clerk’s Office shall send Plaintiff a civil rights complaint form;
- 12 3. Within thirty (30) days from the date of service of this order, Plaintiff shall file an
13 amended complaint; and
- 14 4. If Plaintiff fails to file an amended complaint in compliance with this order, this
15 action will be dismissed, with prejudice, for failure to state a claim.
- 16

17 IT IS SO ORDERED.

18 Dated: February 22, 2015

/s/ Dennis L. Beck
19 UNITED STATES MAGISTRATE JUDGE