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2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF CALIFORNIA
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7 DENO WOODIS,

8 Plaintiff,

9 vs.

10 A. KING, et al.,

11 Defendants

Case No. 1:14 cv 00281 AWI GSA

FINDINGS AND RECOMMENDATIONS
THAT THIS ACTION BE DISMISSEED
FOR FAILURE TO STATE A CLAIM UPON
WHICH RELIEF MAY BE GRANTED

12 OBJECTIONS DUE IN THIRTY DAYS

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14 **I. Screening Requirement**

15 Plaintiff is a civil detainee proceeding pro se and in forma pauperis in this civil rights
16 action pursuant to 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule
17 302 pursuant to 28 U.S.C. § 636(b)(1).

18 “Rule 8(a)’s simplified pleading standard applies to all civil actions, with limited
19 exceptions,” none of which applies to section 1983 actions. Swierkiewicz v. Sorema N. A., 534
20 U.S. 506, 512 (2002); Fed. R. Civ. P. 8(a). Pursuant to Rule 8(a), a complaint must contain “a
21 short and plain statement of the claim showing that the pleader is entitled to relief” Fed. R.
22 Civ. P. 8(a). “Such a statement must simply give the defendant fair notice of what the plaintiff’s
23 claim is and the grounds upon which it rests.” Swierkiewicz, 534 U.S. at 512. However, “the
24 liberal pleading standard . . . applies only to a plaintiff’s factual allegations.” Neitze v. Williams,
25 490 U.S. 319, 330 n.9 (1989). “[A] liberal interpretation of a civil rights complaint may not
26 supply essential elements of the claim that were not initially pled.” Bruns v. Nat’l Credit Union
27 Admin., 122 F.3d 1251, 1257 (9th Cir. 1997) (quoting Ivey v. Bd. of Regents, 673 F.2d 266, 268
28 (9th Cir. 1982)).

1 **II. Plaintiff’s Claims**

2 Plaintiff, a civil detainee in the custody of the California Department of Mental Health
3 (CDMH) at Coalinga State Hospital (CSH), brings this civil rights action against officials
4 employed by the CDMH. Plaintiff names as defendants the Executive Director of CSH and the
5 Director of the CDMH.

6 Plaintiff’s statement of claim is difficult to discern. Plaintiff’s complaint is a rambling
7 statement that refers to his status as a Sexually Violent Predator (SVP). Plaintiff indicates
8 generally that his civil rights have been violated. As relief, Plaintiff does seek release from the
9 state hospital. Although Plaintiff does not clearly articulate his claim, it is clear that Plaintiff is
10 challenging the basis of his commitment as a SVP.

11 **A. Civil Commitment**

12 “[C]ivil commitment for any purpose constitutes a significant deprivation of liberty that
13 requires due process protection.” Addington v. Texas, 441 U.S. 418, 425 (1979). “[I]n certain
14 narrow circumstances,” states may “provide for the forcible civil detainment of people who are
15 unable to control their behavior and who thereby pose a danger to the public health and safety.”
16 Kansas v. Hendricks, 521 U.S. 346, 357 (1997). Statutes providing for involuntary civil
17 commitment have been “consistently upheld . . . provided the confinement takes place pursuant
18 to proper procedures and evidentiary standards.” Id. (holding that Kansas Sexually Violent
19 Predator Act comports with due process requirements).

20 The Court finds that the post-commitment procedures set forth in the SVPA do not
21 violate the Due Process Clause of the Fourteenth Amendment. Although Plaintiff does not
22 specify allege any particular deficiency on the part of evaluators used by CDMH, he does base
23 his claim on the presumption that he is being held illegally.

24 In civil commitment hearings, the factors relevant in determining whether an individual
25 has been afforded sufficient procedural protections under the due process clause are whether the
26 individual received: 1) written notice; 2) a hearing at which the evidence being relief upon for
27 the commitment is disclosed to the detainee; 3) an opportunity at the hearing for the detainee to

1 be heard in person, to present testimony and documentary evidence, and to cross-examine
2 witnesses called by the state; 4) an independent decision maker; 5) reasoned findings of fact; 6)
3 legal counsel; and 7) effective and timely notice of these rights. Vitek v. Jones, 445 U.S. 480,
4 494-97 (1980); Carty v. Nelson, 426 F.3d 1064, 1074 (9th Cir. 2005). Plaintiff has not alleged
5 that he was deprived of any of these procedural protections.

6 Any deficiencies that are alleged on the part of the evaluators do not rise to the level of a
7 due process violation. The evaluators are not the ultimate decision makers who decide whether
8 Plaintiff should continue to be detained. Under the SVPA's scheme, a superior court judge is the
9 ultimate decision maker. The SVPA scheme permits Plaintiff to file a petition in state court for
10 conditional or unconditional release without the recommendation the evaluators or CDMH.
11 Thus, even if Plaintiff's allegations are proven true and the evaluators hired by CDMH based
12 their evaluation upon insufficient methods, the alleged impropriety is of little consequence
13 because Plaintiff can file a petition for release directly to the court and would be entitled to the
14 assistance of an attorney and will have the opportunity to present evidence before a state judge in
15 support of his contention that he is no longer a sexually violent predator within the definition of
16 the SVPA. Presumably, within the petition itself and at any subsequent hearing, Plaintiff will
17 have the opportunity to present evidence in support of his contention that the evaluators'
18 opinions are not worthy of consideration because of their biases. In other words, the SVPA
19 scheme provides for sufficient procedural mechanisms for Plaintiff to challenge the evaluators'
20 conclusions and provides Plaintiff with the opportunity to prove by a preponderance of evidence
21 in a hearing before a state court judge that he no longer qualifies for civil detainment. The Court
22 finds that the procedural protections provided by California's SVPA do not violate due process.
23 Robinson v. Mayberg, No. 09cv346-IEG(POR), 2010 WL 2196564, *7 (S.D. Cal. May 27,
24 2010)("the procedures for judicial review, set forth in Cal. Welf. & Inst. Code §§ 6605 and 6608,
25 are sufficient to insure that Petitioner's confinement will not continue beyond the point when he
26 no longer suffers from a mental disorder or is no longer dangerous").

1 Given the SVPA’s scheme for obtaining release from civil confinement, Plaintiff has
2 failed to provide a clear explanation of how he suffered any injury. Even if the Court were to
3 assume that the evaluators consistently concluded that Plaintiff was unfit for conditional or
4 unconditional release, that does not foreclose Plaintiff’s chance for release. Plaintiff could have
5 utilized the procedures outlined under Section 6608 to challenge the evaluators’ conclusions. If
6 Plaintiff believed that the evidence used by the evaluators was unreliable, that the evaluators
7 were biased, or that the actuarial assessment methodologies used were unreliable, Section 6608
8 provides ample opportunity for Plaintiff to file a petition in state court and present evidence in
9 support of his contentions. The procedural protections offered by 6608 are constitutionally
10 sufficient to protect Plaintiff’s liberty interests. Plaintiff’s factual allegations fail to support a
11 cognizable claim under the Due Process Clause. Because Plaintiff cannot cure this deficiency,
12 the Court dismisses this action without leave to amend. See Lopez v. Smith, 203 F.3d 1122,
13 1127 (9th Cir. 2007)(recognizing longstanding rule that leave to amend should be granted even
14 if no request to amend was made unless the court determines that the pleading could not possibly
15 be cured by the allegation of other facts); Noll v. Carlson, 809 F.2d 1446, 1448 (9th Cir.
16 1987)(pro se litigant must be given leave to amend his or her complaint unless it is absolutely
17 clear that the deficiencies of the complaint could not be cured by amendment).

18 **III. Conclusion and Recommendation**

19 The Court has screened Plaintiff’s complaint and finds that it does not state any claims
20 upon which relief may be granted under section 1983. Accordingly, IT IS HEREBY
21 RECOMMENDED that this action is dismissed for failure to state a claim upon which relief
22 could be granted.

23 These findings and recommendations are submitted to the United States District Judge
24 assigned to the case, pursuant to the provisions of 28 U.S. C. § 636(b)(1)(B). Within thirty days
25 after being served with these findings and recommendations, plaintiff may file written objections
26 with the Court. Such a document should be captioned “Objections to Magistrate Judge’s
27 Findings and Recommendations.” Plaintiff is advised that failure to file objections within the
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1 specified time waives all objections to the judge's findings of fact. See Turner v. Duncan, 158
2 F.3d 449, 455 (9th Cir. 1988). Failure to file objections within the specified time may waive the
3 right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).
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5 IT IS SO ORDERED.

6 Dated: June 25, 2014

7 /s/ Gary S. Austin

8 UNITED STATES MAGISTRATE JUDGE
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