

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

RONALD WILLIAMS,

Plaintiff,

v.

BRIAN ROBERTS, et al.,

Defendants.

CASE NO. 1:14-cv-00473-MJS

ORDER DISMISSING PLAINTIFF'S FIRST  
AMENDED COMPLAINT FOR FAILURE  
TO STATE A COGNIZABLE CLAIM

(ECF NO. 9)

AMENDED COMPLAINT DUE WITHIN  
THIRTY (30) DAYS

**SCREENING ORDER**

**I. PROCEDURAL HISTORY**

Plaintiff Ronald Williams, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on March 26, 2014. (ECF No. 1.) He has consented to Magistrate Judge jurisdiction. (ECF No. 7.) On April 14, 2014, Plaintiff filed the amended complaint (ECF No. 9) that is now before the Court for screening.

**II. SCREENING REQUIREMENT**

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, malicious,” or 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. § 1915A(b)(1),(2). “Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that . . . the action or appeal . . . fails to state a claim upon which relief may be granted.” 28 U.S.C. § 1915(e)(2)(B)(ii).

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

The First Amended Complaint identifies Brian Roberts, Commissioner of Board of Parole Hearings, Corcoran State Prison (Corcoran) and Adeniji Kenyinsola, Deputy Commissioner, as Defendants.

Plaintiff alleges the following:

On February 20, 2014, Defendant Roberts deemed Plaintiff dangerous and denied him parole on that basis. Plaintiff has actively worked towards rehabilitation and his prison records do not support Defendant Roberts’ conclusion that Plaintiff is dangerous. Defendant Roberts also denied Plaintiff the ability to freely exercise his religion in violation of the First Amendment. (Compl. at 2-3.)

### **IV. ANALYSIS**

#### **A. Section 1983**

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

To state a claim under Section 1983, a plaintiff must allege two essential elements: (1) that a right secured by the Constitution or laws of the United States was violated and (2) that the alleged violation was committed by a person acting under the

1 color of state law. See West v. Atkins, 487 U.S. 42, 48 (1988); Ketchum v. Alameda  
2 Cnty., 811 F.2d 1243, 1245 (9th Cir. 1987).

3 A complaint must contain “a short and plain statement of the claim showing that  
4 the pleader is entitled to relief . . . .” Fed. R. Civ. P. 8(a)(2). Detailed factual allegations  
5 are not required, but “[t]hreadbare recitals of the elements of a cause of action,  
6 supported by mere conclusory statements, do not suffice.” Ashcroft v. Iqbal, 129 S.Ct.  
7 1937, 1949 (2009) (citing Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007)).  
8 Plaintiff must set forth “sufficient factual matter, accepted as true, to ‘state a claim that is  
9 plausible on its face.’” Id. Facial plausibility demands more than the mere possibility  
10 that a defendant committed misconduct and, while factual allegations are accepted as  
11 true, legal conclusions are not. Id. at 1949-50.

## 12 **B. Denial of Parole**

13 When a prisoner challenges the legality or duration of his custody, or raises a  
14 constitutional challenge which could entitle him to an earlier release, his sole federal  
15 remedy is a writ of habeas corpus. Wilkinson v. Dotson, 544 U.S. 74, 81–2 (2005);  
16 Preiser v. Rodriguez, 411 U.S. 475 (1973); Young v. Kenny, 907 F.2d 874 (9th Cir.  
17 1990), cert. denied 498 U.S. 1126 (1991). Thus, where a § 1983 action seeking  
18 monetary damages or declaratory relief alleges constitutional violations which would  
19 necessarily imply the invalidity of the prisoner's underlying conviction or sentence, such  
20 a claim is not cognizable under § 1983 unless the conviction or sentence has first been  
21 invalidated on appeal, by habeas petition, or through some similar proceeding. See  
22 Edwards v. Balisok, 520 U.S. 641, 646 (1987) (holding that § 1983 claim not cognizable  
23 because allegations of procedural defects and a biased hearing officer implied the  
24 invalidity of the underlying prison disciplinary sanction); Heck v. Humphrey, 512 U.S.  
25 477, 483–84 (1994) (concluding that § 1983 not cognizable because allegations were  
26 akin to malicious prosecution action which includes as an element a finding that the  
27 criminal proceeding was concluded in plaintiff's favor); Butterfield v. Bail, 120 F.3d 1023,  
28 1024–25 (9th Cir. 1997) (concluding that § 1983 claim not cognizable because

1 allegations of procedural defects were an attempt to challenge substantive result in  
2 parole hearing).

3 Plaintiff asserts that he was improperly denied parole and seeks a new hearing.  
4 “Few things implicate the validity of continued confinement more directly than the  
5 allegedly improper denial of parole. This is true whether that denial is alleged to be  
6 improper based upon procedural defects in the parole hearing or upon allegations that  
7 parole was improperly denied on the merits.” Butterfield, 120 F.3d at 1024. Here,  
8 success on Plaintiff's claim would necessarily imply the invalidity of the parole board's  
9 decision and Plaintiff's continued incarceration. As such, Plaintiff's claim is not  
10 cognizable until and unless Plaintiff can show that the February 20, 2014 parole  
11 determination has been set aside by the grant of writ of habeas corpus. Heck, 512 U.S.  
12 at 487.

13 The deficiencies identified herein cannot be cured. Leave to amend this particular  
14 claim would be futile.

### 15 **C. Free Exercise**

16 The First Amendment “prohibits government from making a law ‘prohibiting the  
17 free exercise (of religion).’” Cruz v. Beto, 405 U.S. 319, 322 (1972) (per curiam)  
18 (alteration in original). Prisoners “retain protections afforded by the First Amendment,”  
19 including the free exercise of religion. O'Lone v. Estate of Shabazz, 482 U.S. 342, 348  
20 (1987). “A prisoner's right to freely exercise his religion, however, is limited by  
21 institutional objectives and by the loss of freedom concomitant with incarceration.”  
22 Hartmann v. California Dep't of Corr. & Rehab., 707 F.3d 1114, 1122 (9th Cir. 2013)  
23 (citing O'Lone, 482 U.S. at 348).

24 In order to establish a free exercise violation, a prisoner must show a defendant  
25 burdened the practice of his religion without any justification reasonably related to  
26 legitimate penological interests. See Shakur v. Schriro, 514 F.3d 878, 883–84 (9th Cir.  
27 2008). Only beliefs which are both sincerely held and rooted in religious beliefs trigger  
28

1 the Free Exercise Clause. Id. at 884–85 (citing Malik v. Brown, 16 F.3d 330, 333 (9th  
2 Cir. 1994) and Callahan v. Woods, 658 F.2d 679, 683 (9th Cir. 1981)).

3 The Complaint briefly alleges Defendant Roberts denied Plaintiff the ability to  
4 freely exercise his religion in violation of the First Amendment. Plaintiff wants this action  
5 to validate his “right to choose a religion that supports parolees and their rights declared  
6 in the Constitution.” (Compl. at 3.) There are no other facts or allegations which support  
7 or explain this claim.

8 Plaintiff has failed to allege a colorable First Amendment claim. In what may be  
9 an abundance of deference, the Court will grant Plaintiff leave to amend only his free  
10 exercise claim. Should Plaintiff choose to amend, he must explain how the Defendants  
11 burdened the practice of his religion without any justification reasonably related to  
12 legitimate penological interests. Plaintiff is cautioned that leave to amend is only granted  
13 with regard to his First Amendment claim.

#### 14 **V. CONCLUSION AND ORDER**

15 Plaintiff’s First Amended Complaint does not state a claim for relief. The Court  
16 will grant Plaintiff an opportunity to file an amended complaint. Noll v. Carlson, 809 F.2d  
17 1446, 1448-49 (9th Cir. 1987). If Plaintiff opts to amend, he must demonstrate that the  
18 alleged acts resulted in a deprivation of his constitutional rights. Iqbal, 129 S.Ct. at  
19 1948-49. Plaintiff must set forth “sufficient factual matter . . . to ‘state a claim that is  
20 plausible on its face.’” Id. at 1949 (quoting Twombly, 550 U.S. at 555 (2007)). Plaintiff  
21 must also demonstrate that each named Defendant personally participated in a  
22 deprivation of his rights. Jones v. Williams, 297 F.3d 930, 934 (9th Cir. 2002).

23 Plaintiff should note that although he has been given the opportunity to amend, it  
24 is not for the purposes of adding new claims. George v. Smith, 507 F.3d 605, 607 (7th  
25 Cir. 2007). Plaintiff should carefully read this Screening Order and focus his efforts on  
26 curing the deficiencies set forth above.

27 Finally, Plaintiff is advised that Local Rule 220 requires that an amended  
28 complaint be complete in itself without reference to any prior pleading. As a general

1 rule, an amended complaint supersedes the original complaint. See Loux v. Rhay, 375  
2 F.2d 55, 57 (9th Cir. 1967). Once an amended complaint is filed, the original complaint  
3 no longer serves any function in the case. Therefore, in an amended complaint, as in an  
4 original complaint, each claim and the involvement of each defendant must be  
5 sufficiently alleged. The amended complaint should be clearly and boldly titled "Second  
6 Amended Complaint," refer to the appropriate case number, and be an original signed  
7 under penalty of perjury. Plaintiff's amended complaint should be brief. Fed. R. Civ. P.  
8 8(a). Although accepted as true, the "[f]actual allegations must be [sufficient] to raise a  
9 right to relief above the speculative level . . . ." Twombly, 550 U.S. at 555 (citations  
10 omitted).

11 Accordingly, it is HEREBY ORDERED that:

12 1. The Clerk's Office shall send Plaintiff (1) a blank civil rights complaint form  
13 and (2) a copy of his First Amended Complaint, filed April 14, 2014;

14 2. Plaintiff's First Amended Complaint is dismissed for failure to state a claim  
15 upon which relief may be granted;

16 3. Plaintiff shall file an amended complaint within thirty (30) days; and

17 4. If Plaintiff fails to file an amended complaint in compliance with this order,  
18 this action will be dismissed, with prejudice, for failure to state a claim and failure to  
19 comply with a court order.

20  
21 IT IS SO ORDERED.

22 Dated: May 30, 2014

/s/ Michael J. Seng  
23 UNITED STATES MAGISTRATE JUDGE  
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