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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RAYMOND E. JENKINS,
Plaintiff,
v.
CDCR, et al.,
Defendants.

Case No. 1:14-cv-00482 DLB PC
ORDER DISMISSING COMPLAINT
WITH LEAVE TO AMEND
THIRTY-DAY DEADLINE

Plaintiff Raymond E. Jenkins (“Plaintiff”) is a California state prison inmate proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action in the Northern District of California. The action was transferred to this Court on April 1, 2014. Plaintiff names the CDCR as Defendant.

A. SCREENING 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. § 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).

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

8 Section 1983 provides a cause of action for the violation of Plaintiff’s constitutional or
9 other federal rights by persons acting under color of state law. Nurre v. Whitehead, 580 F.3d
10 1087, 1092 (9th Cir 2009); Long v. County of Los Angeles, 442 F.3d 1178, 1185 (9th Cir. 2006);
11 Jones v. Williams, 297 F.3d 930, 934 (9th Cir. 2002). Plaintiff’s allegations must link the actions
12 or omissions of each named defendant to a violation of his rights; there is no respondeat superior
13 liability under section 1983. Iqbal, 556 U.S. at 676-77; Simmons v. Navajo County, Ariz., 609
14 F.3d 1011, 1020-21 (9th Cir. 2010); Ewing v. City of Stockton, 588 F.3d 1218, 1235 (9th Cir.
15 2009); Jones, 297 F.3d at 934. Plaintiff must present factual allegations sufficient to state a
16 plausible claim for relief. Iqbal, 556 U.S. at 678-79; Moss v. U.S. Secret Service, 572 F.3d 962,
17 969 (9th Cir. 2009). The mere possibility of misconduct falls short of meeting this plausibility
18 standard. Iqbal, 556 U.S. at 678; Moss, 572 F.3d at 969.

19 **B. DISCUSSION**

20 Plaintiff is incarcerated and he is representing himself in this action. Under those
21 circumstances, the Court is lenient in overlooking technical and other errors. However, Plaintiff’s
22 complaint is incomprehensible and illegible. The entirety of his statement of claim is as follows:

23 CDCR are hold inmate agent dat w false imprisonment are so make inmate work
24 for koun this is balck salver we are USC. Right C/O office do work do not help
25 inmate and parole do not help.

26 (Pl.’s Compl. at 3.)

27 Plaintiff is required to submit filings which are “clearly legible.” Local Rule 130(b). Rule
28 8(a) requires the complaint to contain: “(1) a short and plain statement of the grounds for the

1 court’s jurisdiction, . . .; (2) a short and plain statement of the claim showing that the pleader is
2 entitled to relief; and (3) a demand for the relief sought, which may include relief in the alternative
3 or different types of relief.”

4 As Plaintiff’s complaint is incomprehensible and illegible, the Court cannot determine the
5 nature of his complaints. The Court will grant Plaintiff an opportunity to file an amended
6 complaint.

7 **C. CONCLUSION AND ORDER**

8 Plaintiff’s amended complaint should be brief, Fed. R. Civ. P. 8(a), but it must state what
9 each named Defendant did that led to the deprivation of Plaintiff’s federal rights and liability may
10 not be imposed on supervisory personnel under the theory of mere *respondeat superior*, Iqbal, 556
11 U.S. at 676-77; Starr v. Baca, 652 F.3d 1202, 1205-07 (9th Cir. 2011), *cert. denied*, 132 S.Ct.
12 2101 (2012). Although accepted as true, the “[f]actual allegations must be [sufficient] to raise a
13 right to relief above the speculative level. . . .” Twombly, 550 U.S. at 555 (citations omitted).

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

17 Accordingly, it is HEREBY ORDERED that:

- 18 1. Plaintiff’s complaint is dismissed, with leave to amend;
- 19 2. The Clerk’s Office shall send Plaintiff a civil rights complaint form;
- 20 3. Within **thirty (30) days** from the date of service of this order, Plaintiff shall file an
21 amended complaint; and
- 22 4. If Plaintiff fails to file an amended complaint in compliance with this order, this
23 action will be dismissed, with prejudice, for failure to state a claim.

24
25 IT IS SO ORDERED.

26 Dated: February 22, 2015

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

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