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9 **UNITED STATES DISTRICT COURT**  
10 **EASTERN DISTRICT OF CALIFORNIA**  
11

12 JASON PAGE,

13 Plaintiff,

14 v.

15 CCSATF PRISON, et al.,

16 Defendants.

Case No. 1:14-cv-00565 DLB PC

ORDER DISMISSING FIRST AMENDED  
COMPLAINT WITHOUT LEAVE TO  
AMEND

THIRTY-DAY DEADLINE

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18 Plaintiff Jason Page (“Plaintiff”) is a California state prisoner proceeding pro se and in forma  
19 pauperis in this civil action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on April 21,  
20 2014. Pursuant to Court order, he filed a First Amended Complaint on October 31, 2014. He names  
21 the California Substance Abuse Treatment Facility (“CSATF”), CSATF Associate Warden Tolson,  
22 CSATF Captain Ramirez, CSATF Lieutenant Sneel and Sergeant Beeler as Defendants.<sup>1</sup>

23 **A. SCREENING REQUIREMENT**

24 The Court is required to screen complaints brought by prisoners seeking relief against a  
25 governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The  
26 Court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally  
27 “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek  
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<sup>1</sup> Plaintiff consented to the jurisdiction of the United States Magistrate Judge on May 5, 2014.

1 monetary relief from a defendant who is immune from such relief. 28 U.S.C.

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

5 § 1915(e)(2)(B)(ii).

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

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

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

25 Plaintiff is currently incarcerated at CSATF, where the events at issue occurred.

26 Plaintiff’s allegations concern what he believes to be a smuggling operation at CSATF. He  
27 believes that Defendants “have conspired to protect fellow staff/employee members who are  
28 smuggling illegal contraband into the prison.” EFC NO. 13, at 2. Plaintiff alleges that Defendants

1 are ignoring their safety and security protocol search duties concerning entering staff and are  
2 blaming inmates for the trafficking and possession of illegal contraband. Plaintiff believes that this  
3 failure placed him at risk of harm.

4 Plaintiff contends that Defendants had knowledge of an ongoing investigation into the  
5 smuggling issues and placed Plaintiff at a greater risk of harm by assigning him to work in the area  
6 where the investigation was in progress, “Like a Cobra in Waiting.” ECF NO. 13, at 2. According  
7 to Plaintiff, the investigation was aimed at uncovering a conspiracy to smuggle illegal contraband  
8 into CSATF “E” grounds by way of the Education Department, where Plaintiff was assigned to  
9 work.

10 After eleven days of part-time employment in the Education Department, Plaintiff was  
11 “intentionally involved in the arrest of the entire inmate work force.” ECF No. 13, at 3. He was  
12 arrested and placed into restraints, then placed in an isolation cell in Administrative Segregation.  
13 Defendants Sneel and Beeler issued the lock-up order. According to Plaintiff’s exhibits, Defendant  
14 Snell issued the Ad-Seg Placement Notice and Defendant Beeler served the notice. ECF No. 13, at  
15 12.

16 Plaintiff contends that Defendants Tolson and Ramirez ordered the placement even though  
17 they were fully aware that Plaintiff was not guilty of any violations to the safety and security of the  
18 institution. Plaintiff alleges that he was placed in Ad-Seg unjustly, and lost all of his classification  
19 privileges. He also alleges that this caused irreparable harm to his character and good standing with  
20 the staff.

21 In specifically explaining the involvement of each Defendant, Plaintiff contends that  
22 Defendant Tolson violated the Eighth Amendment by accusing him of the illegal introduction of  
23 contraband and ordering his arrest and placement in Ad-Seg. He contends that Defendant Tolson  
24 knew that Plaintiff had nothing to do with the conspiracy, and no contraband was ever discovered on  
25 Plaintiff’s person. Despite knowing this, Defendant Tolson promoted an inhumane method of  
26 punishment by placing Plaintiff in isolation and confinement in Ad-Seg, confiscating part of his  
27 personal property and barring him from access to rehabilitation and educational opportunities.

1 Plaintiff next contends that Defendant Ramirez did not confer with Plaintiff or investigate  
2 him when he received the lock-up order from Tolson. He alleges that Ramirez was deliberately  
3 indifferent when he failed to protect Plaintiff from further harm, “defaming his character.” ECF No.  
4 13, at 4. Plaintiff alleges that Defendant Ramirez subjected him to cruel and unusual punishment  
5 when he was placed into Ad-Seg isolation for two weeks.

6 Plaintiff contends that Defendant Sneel acted with deliberate indifference when he ignored  
7 the allegations against Plaintiff and blamed him without an investigation.

8 Finally, Plaintiff contends that Defendant Beeler acted with deliberate indifference when he  
9 blamed Plaintiff for the introduction of illegal contraband. He contends that Defendant Beeler let  
10 Plaintiff suffer a false arrest, despite his prior knowledge of Plaintiff’s innocence.

11 Based on these allegations, Plaintiff contends that Defendants violated the First, Eighth and  
12 Fourteenth Amendments.

### 13 C. **DISCUSSION**

#### 14 1. **CSATF**

15 Plaintiff names CSATF as a Defendant. Plaintiff is advised that he may not sustain an action  
16 against a state prison. The Eleventh Amendment prohibits federal courts from hearing suits brought  
17 against an unconsenting state. Brooks v. Sulphur Springs Valley Elec. Co., 951 F.2d 1050, 1053  
18 (9th Cir. 1991) (citation omitted); see also Seminole Tribe of Fla. v. Florida, 116 S.Ct. 1114, 1122  
19 (1996). The Eleventh Amendment bars suits against state agencies as well as those where the state  
20 itself is named as a defendant. See Natural Resources Defense Council v. California Dep’t of  
21 Tranp., 96 F.3d 420, 421 (9th Cir. 1996); Brooks, 951 F.2d at 1053; Taylor v. List, 880 F.2d 1040,  
22 1045 (9th Cir. 1989) (concluding that Nevada Department of Prisons was a state agency entitled to  
23 Eleventh Amendment immunity); Mitchell v. Los Angeles Community College Dist., 861 F.2d 198,  
24 201 (9th Cir. 1989). Because CSATF is a part of the California Department of Corrections and  
25 Rehabilitation, which is a state agency, it is entitled to Eleventh Amendment immunity from suit.

#### 26 2. **Eighth Amendment- Failure to Protect**

27 The Eighth Amendment protects prisoners from inhumane methods of punishment and from  
28 inhumane conditions of confinement. Morgan v. Morgensen, 465 F.3d 1041, 1045 (9th Cir. 2006).

1 Although prison conditions may be restrictive and harsh, prison officials must provide prisoners with  
2 food, clothing, shelter, sanitation, medical care, and personal safety. Farmer v. Brennan, 511 U.S.  
3 825, 832-33, 114 S.Ct. 1970 (1994) (quotations omitted). Prison officials have a duty under the  
4 Eighth Amendment to protect prisoners from violence at the hands of other prisoners because being  
5 violently assaulted in prison is simply not part of the penalty that criminal offenders pay for their  
6 offenses against society. Farmer, 511 U.S. at 833-34 (quotation marks omitted); Clem v. Lomeli,  
7 566 F.3d 1177, 1181 (9th Cir. 2009); Hearns v. Terhune, 413 F.3d 1036, 1040 (9th Cir. 2005).

8 However, prison officials are liable under the Eighth Amendment only if they demonstrate  
9 deliberate indifference to conditions posing a substantial risk of serious harm to an inmate; and it is  
10 well settled that deliberate indifference occurs when an official acted or failed to act despite his  
11 knowledge of a substantial risk of serious harm. Farmer, 511 U.S. at 834, 841 (quotations omitted);  
12 Clem, 566 F.3d at 1181; Hearns, 413 F.3d at 1040.

13 In the prior screening order, the Court found that Defendants' alleged failure to protect him  
14 by placing him in an environment where they knew he would be blamed for contraband smuggling  
15 did not state a claim. Specifically, the Court explained that although Plaintiff may believe that he  
16 was knowingly placed in an environment that constituted a "greater risk of harm," being accused,  
17 even wrongly, of a crime in prison does not rise to the level of an Eighth Amendment violation.  
18 Plaintiff did not allege that he was denied food, clothing, shelter, sanitation or medical care, or that  
19 his personal *physical* safety was at risk.

20 In amending, Plaintiff repeats essentially the same allegations. He adds that he was "actually  
21 put at risk of physical harm," but Plaintiff conclusory, speculative allegation does not bolster his  
22 claim.

23 For these reasons, Plaintiff does not state a claim for failure to protect under the Eighth  
24 Amendment.

25 3. Eighth Amendment- Conditions of Confinement

26 To violate the Eighth Amendment, "a prison official's act or omission must result in the  
27 denial of the minimal civilized measure of life's necessities." Farmer v. Brennan, 511 U.S. 825, 832,  
28 834 (1994). A cognizable Eighth Amendment claim requires facts showing: (1) the deprivation

1 alleged is objectively sufficiently serious; and (2) the prison official possessed a sufficiently culpable  
2 state of mind. Farmer, 511 U.S. at 834 (citing Wilson v. Seiter, 501 U.S. 294, 297–98 (1991)).

3 Here, Plaintiff argues that “simply placing an inmate in Ad-Seg for any extended period of  
4 time under premeditated false allegations, with prior knowledge of an inmate’s innocence, is an act  
5 of cruel and unusual treatment in itself.” ECF No. 13, at 7. Plaintiff alleges that he was in isolation  
6 for two weeks, and during that time, lost privileges and property, and suffered harm to his character.  
7 Plaintiff also contends that as a result, he has been permanently barred from “rehabilitation access in  
8 Vocational Education areas.” ECF No. 13, at 4.

9 Plaintiff’s allegations fall short of stating an Eighth Amendment claim. Even assuming that  
10 Plaintiff was placed in isolation in Ad-Seg for two weeks based on a false Rules Violation Report,  
11 these facts do not suggest that Plaintiff was subjected to conditions *sufficiently grave* to fall within  
12 the purview of the Eighth Amendment, or that any Defendant knowingly disregarded a *substantial*  
13 *risk of harm* to Plaintiff.<sup>2</sup> These conditions do not rise to the level of an Eighth Amendment  
14 violation.

15 Plaintiff therefore fails to state an Eighth Amendment based on conditions of confinement.

16 4. First Amendment- Retaliation

17 “Prisoners have a First Amendment right to file grievances against prison officials and to be  
18 free from retaliation for doing so.” Watson v. Carter, 668 F.3d 1108, 1114 (9th Cir. 2012) (citing  
19 Brodheim v. Cry, 584 F.3d 1262, 1269 (9th Cir. 2009)). “Within the prison context, a viable claim  
20 of First Amendment retaliation entails five basic elements: (1) An assertion that a state actor took  
21 some adverse action against an inmate (2) because of (3) that prisoner’s protected conduct, and that  
22 such action (4) chilled the inmate’s exercise of his First Amendment rights, and (5) the action did not  
23 reasonably advance a legitimate correctional goal.” Rhodes v. Robinson, 408 F.3d 559, 567-68 (9th  
24 Cir. 2005).

25 In his First Amended Complaint, Plaintiff contends that Defendants retaliated against him  
26 when they “obstructed” him from returning to his work assignment and/or accessing any work  
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28 <sup>2</sup> According to Plaintiff’s exhibits, he was placed in Ad-Seg on May 22, 2013, pending the outcome of the investigation.  
On May 29, 2013, ISU determined that Plaintiff had no involvement in the conspiracy and recommended his release  
from Ad-Seg. ECF No. 13, at 12-13.

1 assignments. ECF No. 13, at 7. Plaintiff alleges that he was stripped of all of his classification  
2 privileges after his exoneration.

3 Plaintiff does not allege, however, that these adverse actions were taken because of his  
4 exercise of any protected conduct, such as filing an inmate grievance. Nor has he alleged that the  
5 allegedly adverse action chilled the exercise of his First Amendment rights, or did not advance a  
6 legitimate correctional goal.

7 Plaintiff therefore fails to state a retaliation claim under the First Amendment.

8 5. Fourteenth Amendment

9 The Due Process Clause protects Plaintiff against the deprivation of liberty without the  
10 procedural protections to which he is entitled under the law. Wilkinson v. Austin, 545 U.S. 209,  
11 221, 125 S.Ct. 2384 (2005). To state a claim, Plaintiff must first identify the interest at stake.  
12 Wilkinson, 545 U.S. at 221. Liberty interests may arise from the Due Process Clause itself or from  
13 state law. Id. The Due Process Clause does not confer on inmates a liberty interest in avoiding more  
14 adverse conditions of confinement, and under state law, the existence of a liberty interest created by  
15 prison regulations is determined by focusing on the nature of the condition of confinement at issue.  
16 Id. at 221-23 (citing Sandin v. Conner, 515 U.S. 472, 481-84, 115 S.Ct. 2293 (1995)) (quotation  
17 marks omitted). Liberty interests created by prison regulations are generally limited to freedom  
18 from restraint which imposes atypical and significant hardship on the inmate in relation to the  
19 ordinary incidents of prison life. Id. at 221(citing Sandin, 515 U.S. at 484) (quotation marks  
20 omitted); Myron v. Terhune, 476 F.3d 716, 718 (9th Cir. 2007).

21 In his original complaint, the Court explained that Plaintiff did not state a due process claim  
22 with respect to his placement in Ad-Seg because he did not set forth any specific facts suggesting  
23 that he did not receive the process he was due, either in his disciplinary proceeding or his placement  
24 in Ad-Seg. Superintendent v. Hill, 472 U.S. 445, 455, 105 S.Ct. 2768 (1985); Wolff v. McDonnell,  
25 418 U.S. 539, 556, 94 S.Ct. 2963 (1974); Toussaint v. McCarthy, 801 F.2d 1080, 1100-01 (9th Cir.  
26 1986).

27 The Court also explained that his allegations that he was falsely accused did not, alone, state  
28 a claim under the Fourteenth Amendment. To the extent that Plaintiff's claim can be interpreted as a

1 claim that there was insufficient evidence to support his Rules Violation Report, the Court notes that  
2 after an investigation, Plaintiff was found to have had no involvement in the conspiracy.

3 Finally, the Court explained that Plaintiff did not have an independent right to an accurate  
4 prison record under the Due Process Clause. Hernandez v. Johnston, 833 F.2d 1316, 1319 (9th Cir.  
5 1987).

6 In his First Amended Complaint, Plaintiff basically realleges these claims, though he now  
7 suggests that the false records in his CDCR file “could cause an adverse impact on a parole grant.”  
8 ECF No. 13, at 6. His claim is speculative, at best, and does not state a due process claim. Again,  
9 Plaintiff was exonerated after an investigation, and this finding was chronicled on a CDC-128-B  
10 form. This form was placed in his Central File. ECF No. 13, at 13.

11 Based on these legal standards, Plaintiff has not stated a claim for relief under the Fourteenth  
12 Amendment.

13 **D. CONCLUSION AND ORDER**

14 Plaintiff’s complaint fails to state any cognizable claims against any Defendants. Plaintiff  
15 was given an opportunity to amend, but he has failed to correct any of the deficiencies previously  
16 identified. Based on the nature of the amendments, it does not appear that Plaintiff can state any  
17 cognizable claims and further leave to amend is not warranted. Lopez v. Smith, 203 F.3d 1122,  
18 1130 (9th Cir. 2000); Noll v. Carlson, 809 F.2d 1446, 1448-49 (9th Cir. 1987).

19 Accordingly, Plaintiff’s First Amended Complaint is DISMISSED WITHOUT LEAVE TO  
20 AMEND for failure to state a claim for which relief can be granted.

21 This terminates this action in its entirety.

22  
23 IT IS SO ORDERED.

24 Dated: March 20, 2015

/s/ Dennis L. Beck  
UNITED STATES MAGISTRATE JUDGE