

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

KENNETH ARDELL SMITH,)	1:14-cv-00805-BAM (PC)
)	
Plaintiff,)	
)	SCREENING ORDER DISMISSING
v.)	COMPLAINT AND GRANTING LEAVE TO
)	AMEND
CDC CORCORAN STATE PRISON,)	(ECF No. 1)
)	
Defendant.)	THIRTY-DAY DEADLINE
)	
)	

I. Screening Requirement and Standard

Plaintiff Kenneth Ardell Smith (“Plaintiff”) is a former state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff’s complaint, filed on May 27, 2014, is currently before the Court for screening.

The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity and/or against an officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). Plaintiff’s complaint, or any portion thereof, is subject to dismissal if it is frivolous or malicious, if it fails to state a claim upon which relief may be granted, or if it seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1), (2); 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

1 conclusory statements, do not suffice.” Ashcroft v. Iqbal, 556 U.S. 662, 678, 129 S.Ct. 1937,
2 1949 (2009) (citing Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 127 S.Ct. 1955, 1964-65
3 (2007)). While a plaintiff’s allegations are taken as true, courts “are not required to indulge
4 unwarranted inferences.” Doe I v. Wal-Mart Stores, Inc., 572 F.3d 677, 681 (9th Cir. 2009)
5 (internal quotation marks and citation omitted).

6 Prisoners proceeding pro se in civil rights actions are entitled to have their pleadings
7 liberally construed and to have any doubt resolved in their favor. Hebbe v. Pliler, 627 F.3d 338,
8 342 (9th Cir. 2010) (citations omitted). To survive screening, Plaintiff’s claims must be facially
9 plausible, which requires sufficient factual detail to allow the Court to reasonably infer that each
10 named defendant is liable for the misconduct alleged, Iqbal, 556 U.S. at 678, 129 S.Ct. at 1949
11 (quotation marks omitted); Moss v. United States Secret Service, 572 F.3d 962, 969 (9th Cir.
12 2009). The sheer possibility that a defendant acted unlawfully is not sufficient, and mere
13 consistency with liability falls short of satisfying the plausibility standard. Iqbal, 556 U.S. at
14 678, 129 S.Ct. at 1949 (quotation marks omitted); Moss, 572 F.3d at 969.

15 **II. Plaintiff’s Allegations**

16 First Cause of Action

17 On July 20, 2009, Plaintiff was moved from general population and housed in
18 Administrative Segregation by Defendant Fisher. Plaintiff was unable to sleep properly and was
19 traumatized by Defendant Fisher. Plaintiff complained that life was hard to deal with and he had
20 no charges.

21 Second Cause of Action

22 Defendant refused to provide appropriate housing for Plaintiff. Plaintiff spent 60 days in
23 house and was very uncomfortable. He suffered brain burns and difficulty seeing.

24 Third Cause of Action

25 Correctional Lieutenant Commander Riverio housed Plaintiff in a cell to cause Plaintiff
26 more problems. Plaintiff had three total moves to different cells. The filthy cells injured
27 Plaintiff’s mind, eyes and skin complexion. Defendant Riverio failed to protect Plaintiff from
28

1 harm and humiliated Plaintiff about his past security beliefs. Plaintiff's complaint ended after 50
2 to 60 days when he was returned to general housing.

3 Fourth Cause of Action

4 On July 4, 2009, Plaintiff reported that an inmate hit him from behind. Plaintiff was
5 injured to his left front tooth, along with cuts and a busted mouth. Officer Garcia falsely gave
6 Plaintiff a CDC 115 disciplinary report.

7 **III. Deficiencies of Complaint**

8 Plaintiff's complaint fails to comply with Federal Rules of Civil Procedure 8 and 18 and
9 fails to state a cognizable claim. However, Plaintiff will be given an opportunity to amend his
10 complaint. To assist Plaintiff with his amendment, Plaintiff is provided with the applicable
11 pleading and legal standards. Plaintiff should amend only those claims that he believes, in good
12 faith, state a cognizable claim for relief.

13 **A. Pleading Standards**

14 **1. Federal Rule of Civil Procedure 8**

15 Pursuant to Federal Rule of Civil Procedure 8, a complaint must contain "a short and
16 plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a).
17 As noted above, detailed factual allegations are not required, but "[t]hreadbare recitals of the
18 elements of a cause of action, supported by mere conclusory statements, do not suffice." Iqbal,
19 556 U.S. at 678 (citation omitted). Plaintiff must set forth "sufficient factual matter, accepted as
20 true, to 'state a claim to relief that is plausible on its face.'" Iqbal, 556 U.S. at 678 (quoting
21 Twombly, 550 U.S. at 555). While factual allegations are accepted as true, legal conclusions are
22 not. Id.; see also Twombly, 550 U.S. at 556–557; Moss, 572 F.3d at 969.

23 Here, Plaintiff's amended complaint is short, but is difficult to read and understand. The
24 complaint does not set forth sufficient facts to state a claim for relief that is plausible on its face.
25 Plaintiff's complaint contains disjointed phrases and conclusory statements. If Plaintiff chooses
26 to amend his complaint, he should briefly and clearly state the facts giving rise to his claims for
27 relief against the named defendants.

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1 **2. Federal Rule of Civil Procedure 18**

2 Federal Rule of Civil Procedure 18 states that “[a] party asserting a claim, counterclaim,
3 crossclaim, or third-party claim may join, as independent or alternative claims, as many claims
4 as it has against an opposing party.” Fed. R. Civ. P. 18(a). “Thus multiple claims against a single
5 party are fine, but Claim A against Defendant 1 should not be joined with unrelated Claim B
6 against Defendant 2. Unrelated claims against different defendants belong in different suits, not
7 only to prevent the sort of morass [a multiple claim, multiple defendant] suit produce[s] but also
8 to ensure that prisoners pay the required filing fees--for the Prison Litigation Reform Act limits
9 to 3 the number of frivolous suits or appeals that any prisoner may file without prepayment of
10 the required fees.” George v. Smith, 507 F.3d 605, 607 (7th Cir. 2007) (citing 28 U.S.C. §
11 1915(g)).

12 Here, Plaintiff attempts to bring suit against multiple defendants for different incidents at
13 different times. For example, Plaintiff complains about his placement in Administrative
14 Segregation while simultaneously complaining about a false disciplinary write up. It is unclear if
15 these allegations are related. Plaintiff may not pursue unrelated claims against different
16 defendants in a single action. If Plaintiff chooses to file an amended complaint and it fails to
17 comply with Rule 18(a), all unrelated claims will be subject to dismissal.

18 **3. Eleventh Amendment Immunity**

19 Plaintiff names Corcoran State Prison as a defendant. Plaintiff may not sustain an action
20 against a state prison. The Eleventh Amendment “‘erects a general bar against federal lawsuits
21 brought against the state.’” Wolfson v. Brammer, 616 F.3d 1045, 1065–66 (9th Cir.2010)
22 (quoting Porter v. Jones, 319 F.3d 483, 491 (9th Cir. 2003)). As Corcoran State Prison is a part
23 of the California Department of Corrections and Rehabilitation, which is a state agency, it is
24 entitled to Eleventh Amendment immunity from suit. E.g., Pennhurst State School & Hosp. v.
25 Halderman, 465 U.S. 89, 100, 104 S.Ct. 900, 79 L.Ed.2d 67 (1984); Buckwalter v. Nevada Bd.
26 of Medical Examiners, 678 F.3d 737, 740 n. 1 (9th Cir. 2012).

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1 **B. Legal Standards**

2 **1. Administrative Segregation**

3 The basis of Plaintiff's complaint regarding his placement in administrative segregation
4 is unclear. To the extent Plaintiff is complaining about the lack of charges, it appears he is
5 complaining about denial of due process.

6 With respect to placement in administrative segregation, due process requires only that
7 prison officials hold an informal nonadversary hearing within a reasonable time after the prisoner
8 is segregated, inform the prisoner of the charges against him or the reasons for considering
9 segregation, and allow the prisoner to present his views. Toussaint v. McCarthy, 801 F.2d 1080,
10 1100-01 (9th Cir. 1986) (quotation marks omitted), abrogated in part on other grounds, Sandin v.
11 Conner, 515 U.S. 472, 115 S.Ct. 2293 (1995); accord Bruce v. Ylst, 351 F.3d 1283, 1287 (9th
12 Cir. 2003). Prisoners are not entitled to detailed written notice of charges, representation by
13 counsel or counsel substitute, an opportunity to present witnesses, or a written decision
14 describing the reasons for placing the prisoner in administrative segregation. Toussaint, 801
15 F.2d at 1100-01 (quotation marks omitted). Further, due process does not require disclosure of
16 the identity of any person providing information leading to the placement of a prisoner in
17 administrative segregation. Id. (quotation marks omitted).

18 Plaintiff has not included sufficient facts to support a due process claim. Although he
19 alleges a lack of charges, he has not provided any factual details regarding his placement in
20 administrative segregation to state a cognizable claim. Plaintiff will be given leave to cure this
21 deficiency.

22 **2. Conditions of Confinement**

23 Plaintiff appears to complain about the filthy conditions of the cells in Administrative
24 Segregation. The Eighth Amendment's prohibition against cruel and unusual punishment
25 protects prisoners not only from inhumane methods of punishment but also from inhumane
26 conditions of confinement. Morgan v. Morgensen, 465 F.3d 1041, 1045 (9th Cir. 2006) (citing
27 Farmer v. Brennan, 511 U.S. 825, 847, 114 S.Ct. 1970, 128 L.Ed.2d 811 (1994) and Rhodes v.
28 Chapman, 452 U.S. 337, 347, 101 S.Ct. 2392, 69 L.Ed.2d 59 (1981)) (quotation marks omitted).

1 While conditions of confinement may be, and often are, restrictive and harsh, they must not
2 involve the wanton and unnecessary infliction of pain. Morgan, 465 F.3d at 1045 (citing Rhodes,
3 452 U.S. at 347) (quotation marks omitted). Thus, conditions which are devoid of legitimate
4 penological purpose or contrary to evolving standards of decency that mark the progress of a
5 maturing society violate the Eighth Amendment. Morgan, 465 F.3d at 1045 (quotation marks and
6 citations omitted); Hope v. Pelzer, 536 U.S. 730, 737, 122 S.Ct. 2508, 153 L.Ed.2d 666 (2002);
7 Rhodes, 452 U.S. at 346.

8 Prison officials have a duty to ensure that prisoners are provided adequate shelter, food,
9 clothing, sanitation, medical care, and personal safety, Johnson v. Lewis, 217 F.3d 726, 731 (9th
10 Cir. 2000) (quotation marks and citations omitted), but not every injury that a prisoner sustains
11 while in prison represents a constitutional violation, Morgan, 465 F.3d at 1045 (quotation marks
12 omitted). To maintain an Eighth Amendment claim, a prisoner must show that prison officials
13 were deliberately indifferent to a substantial risk of harm to his health or safety. E.g., Farmer,
14 511 U.S. at 847; Thomas v. Ponder, 611 F.3d 1144, 1151–52 (9th Cir. 2010); Foster v. Runnels,
15 554 F.3d 807, 812–14 (9th Cir. 2009); Morgan, 465 F.3d at 1045; Johnson, 217 F.3d at 731;
16 Frost v. Agnos, 152 F.3d 1124, 1128 (9th Cir.1998). A prisoner’s claim does not rise to the level
17 of an Eighth Amendment violation unless (1) “the prison official deprived the prisoner of the
18 ‘minimal civilized measure of life’s necessities,’” and (2) “the prison official ‘acted with
19 deliberate indifference in doing so. ’” Toguchi v. Chung, 391 F.3d 1051, 1057 (9th Cir. 2004)
20 (quoting Hallett v. Morgan, 296 F.3d 732, 744 (9th Cir. 2002) (citation omitted)).

21 Deliberate indifference requires a showing that “prison officials were aware of a
22 “substantial risk of serious harm” to an inmate’s health or safety and that there was no
23 “reasonable justification for the deprivation, in spite of that risk.” Thomas, 611 F.3d at 1150
24 (quoting Farmer, 511 U.S. at 844. The circumstances, nature, and duration of the deprivations are
25 critical in determining whether the conditions complained of are grave enough to form the basis
26 of a viable Eighth Amendment claim.” Johnson, 217 F.3d at 731.

27 Here, Plaintiff has made conclusory statements regarding filthy cells, but does not
28 provide sufficient factual detail regarding the circumstances, nature and duration of the

1 deprivations. Further, Plaintiff has failed to allege that prison officials were deliberately
2 indifferent to a substantial risk of harm to his health or safety. Plaintiff will be given leave to
3 cure these deficiencies.

4 **3. False Disciplinary Report**

5 Plaintiff appears to allege his rights were violated by a false disciplinary report. An
6 inmate can state a cognizable claim arising from a false disciplinary report if the false report was
7 done in retaliation for the exercise of his constitutional rights or if the inmate was not afforded
8 procedural due process in connection with the resulting disciplinary proceedings as provided in
9 Wolff v. McDonnell, 418 U.S. 539, 563–70, 94 S.Ct. 2963, 41 L.Ed.2d 935 (1974). See Hines v.
10 Gomez, 108 F.3d 265, 267 (9th Cir.1997) (retaliation); Hanrahan v. Lane, 747 F.2d 1137, 1141
11 (7th Cir.1984) (finding that an allegation that a prison guard planted false evidence which
12 implicated an inmate in a disciplinary infraction failed to state a claim for which relief can be
13 granted where procedural due process protections are provided); Brown v. Leyva, 2009 WL
14 129879, *3 (E.D. Cal. Jan.20, 2009) (prisoner failed to state cognizable due process or retaliation
15 claim based on allegedly false charges and reports); Rodgers v. Reynaga, 2009 WL 62130, *2
16 (E.D. Cal. Jan.8, 2009) (inmate's allegations that defendants conspired to fabricate a false
17 criminal offense that resulted in his re-housing in administrative segregation failed to state a
18 cognizable retaliation or due process claim).

19 Plaintiff has not stated a cognizable retaliation claim based on a false disciplinary report.
20 Plaintiff has not asserted that the false disciplinary report was issued in retaliation for protected
21 conduct or that he was denied any procedural due process protections. Plaintiff will be given
22 leave to cure these deficiencies.

23 **IV. Conclusion and Order**

24 Plaintiff's complaint fails to comply with Federal Rules of Civil Procedure 8 and 18 and
25 fails to state a claim upon which relief can be granted. As noted above, the Court will provide
26 Plaintiff with an opportunity to amend his complaint and cure the identified deficiencies. Lopez
27 v. Smith, 203 F.3d 1122, 1130 (9th Cir. 2000).
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1 Plaintiff's amended complaint should be brief, Fed. R. Civ. P. 8(a), but it must state what
2 each named defendant did that led to the deprivation of Plaintiff's constitutional rights, Iqbal,
3 556 U.S. at 678-79, 129 S.Ct. at 1948-49. Although accepted as true, the "[f]actual allegations
4 must be [sufficient] to raise a right to relief above the speculative level" Twombly, 550 U.S.
5 at 555 (citations omitted). Additionally, Plaintiff may not change the nature of this suit by
6 adding new, unrelated claims in his amended complaint. George, 507 F.3d at 607 (no
7 "buckshot" complaints).

8 Finally, Plaintiff is advised that an amended complaint supersedes the original complaint.
9 Lacey v. Maricopa County, 693 F.3d 896, 927 (9th Cir. 2012). Therefore, Plaintiff's amended
10 complaint must be "complete in itself without reference to the prior or superseded pleading."
11 Local Rule 220.

12 Based on the foregoing, it is HEREBY ORDERED that:

- 13 1. The Clerk's Office shall send Plaintiff a complaint form;
- 14 2. Plaintiff's complaint is dismissed for failure to comply with Federal Rules of
15 Civil Procedure 8 and 18 and failure to state a claim upon which relief can be granted;
- 16 3. Within thirty (30) days from the date of service of this order, Plaintiff shall file an
17 amended complaint; and
- 18 4. If Plaintiff fails to file an amended complaint in compliance with this order, this
19 action will be dismissed for failure to obey a court order and for failure to state a claim.

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21 IT IS SO ORDERED.

22 Dated: January 13, 2015

23 /s/ Barbara A. McAuliffe
24 UNITED STATES MAGISTRATE JUDGE
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