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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BRUCE WAYNE MILLER,
Plaintiff,
v.
DR. VEGA, et al.,
Defendants.

Case No. 1:14-cv-00919-SKO (PC)
FIRST SCREENING ORDER DISMISSING
COMPLAINT, WITH LEAVE TO AMEND,
FOR FAILURE TO STATE A CLAIM
UNDER SECTION 1983
(Doc. 1)
THIRTY-DAY DEADLINE

_____ /

First Screening Order

I. Screening Requirement and Standard

Plaintiff Bruce Wayne Miller, a civil detainee proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on June 16, 2014. The Court is required to screen Plaintiff’s complaint and dismiss the case, in whole or in part, if the Court determines it fails to state a claim upon which relief may be granted. 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 conclusory statements, do not suffice,” *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S.Ct. 1937 (2009) (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555, 127 S.Ct. 1955 (2007)), and courts “are not required to indulge unwarranted inferences,” *Doe I v. Wal-Mart Stores, Inc.*, 572

1 F.3d 677, 681 (9th Cir. 2009) (internal quotation marks and citation omitted). While factual
2 allegations are accepted as true, legal conclusions are not. *Iqbal*, 556 U.S. at 678. Pro se litigants
3 are entitled to have their pleadings liberally construed and to have any doubt resolved in their
4 favor, *Wilhelm v. Rotman*, 680 F.3d 1113, 1121-23 (9th Cir. 2012); *Hebbe v. Pliler*, 627 F.3d 338,
5 342 (9th Cir. 2010), but Plaintiff’s claims must be facially plausible to survive screening, which
6 requires sufficient factual detail to allow the Court to reasonably infer that each named defendant
7 is liable for the misconduct alleged, *Iqbal*, 556 U.S. at 678 (quotation marks omitted); *Moss v.*
8 *U.S. Secret Service*, 572 F.3d 962, 969 (9th Cir. 2009). The sheer possibility that a defendant
9 acted unlawfully is not sufficient, and mere consistency with liability falls short of satisfying the
10 plausibility standard. *Iqbal*, 556 U.S. at 678 (quotation marks omitted); *Moss*, 572 F.3d at 969.

11 **II. Discussion**

12 Plaintiff is a civil detainee at Coalinga State Hospital (“CSH”) in Coalinga, California, and
13 he brings this action for monetary damages against Dr. Vega, a psychiatrist, and David Lewright, a
14 unit supervisor. Plaintiff alleges that Defendant Vegas is unlicensed, and is creating “extreme
15 false hoods” and using his position to force medication on a “civil not committed detainee.”¹
16 (Doc. 1, Comp., p. 2.) Plaintiff also alleges that CSH is “operating to conceal and to prescribe and
17 to threaten.” (*Id.*) Finally, Plaintiff alleges that psych techs have been harassing Native American
18 patients and taking their sacred religious items, and he is being retaliated against for complaining
19 about the harassment.

20 Plaintiff’s vague, conclusory allegations of misconduct do not suffice to support any
21 claims for relief under section 1983 against Defendants Vega and Lewright. The Court will
22 provide Plaintiff with the following legal standards. Plaintiff may file an amended complaint
23 within thirty days, and he is cautioned to carefully review the following legal standards and set
24 forth specific facts demonstrating the violation of his rights by the named defendants.

25 Under section 1983, Plaintiff must link the named defendants to the participation in the
26 violation at issue. *Iqbal*, 556 U.S. at 676-77; *Simmons v. Navajo County, Ariz.*, 609 F.3d 1011,

27 ¹ Plaintiff’s allegation that Dr. Vega is unlicensed is incorrect. The Court takes judicial notice of the fact that Glenn
28 A. Vega, M.D., is currently licensed by the California Medical Board. Fed. R. Evid. 201; *Daniels-Hall v. Nat’l Educ.*
Ass’n, 629 F.3d 992, 998-99 (9th Cir. 2010).

1 1020-21 (9th Cir. 2010); *Ewing v. City of Stockton*, 588 F.3d 1218, 1235 (9th Cir. 2009); *Jones v.*
2 *Williams*, 297 F.3d 930, 934 (9th Cir. 2002). Liability may not be imposed under a theory of
3 *respondeat superior*, and there must exist some causal connection between the conduct of each
4 named defendant and the violation at issue. *Iqbal*, 556 U.S. at 676-77; *Lemire v. California Dep't*
5 *of Corr. and Rehab.*, 726 F.3d 1062, 1074-75 (9th Cir. 2013); *Lacey v. Maricopa County*, 693
6 F.3d 896, 915-16 (9th Cir. 2012) (en banc); *Starr v. Baca*, 652 F.3d 1202, 1205-08 (9th Cir. 2011),
7 *cert. denied*, 132 S.Ct. 2101 (2012).

8 In general, as a civil detainee, Plaintiff is entitled to treatment more considerate than that
9 afforded pretrial detainees or convicted criminals, *Jones v. Blanas*, 393 F.3d 918, 931-32 (9th Cir.
10 2004), and Plaintiff's right to constitutionally adequate conditions of confinement is protected by
11 the substantive component of the Due Process Clause, *Youngberg v. Romeo*, 457 U.S. 307, 315,
12 102 S.Ct. 2452 (1982). A determination whether Plaintiff's rights were violated requires
13 "balancing of his liberty interests against the relevant state interests." *Youngberg*, 457 U.S. at 321.
14 Plaintiff is "entitled to more considerate treatment and conditions of confinement than criminals
15 whose conditions of confinement are designed to punish," but the Constitution requires only that
16 courts ensure that professional judgment was exercised. *Youngberg*, 457 U.S. at 321-22.

17 Allegations of retaliation against a detainee's First Amendment rights to speech or to
18 petition the government may support a section 1983 claim. *Watison v. Carter*, 668 F.3d 1108,
19 1114-15 (9th Cir. 2012); *Silva v. Di Vittorio*, 658 F.3d 1090, 1104 (9th Cir. 2011). However,
20 Plaintiff's complaint sets forth no specific facts supporting a claim that Defendants Vega and
21 Lewright took some adverse action against him because of his engagement in protected conduct,
22 and that such action chilled the exercise of his First Amendment rights and did not reasonably
23 advance a legitimate state interest. *Watison*, 668 F.3d at 1114-15; *Silva*, 658 F.3d at 1104. The
24 conclusory assertion that Plaintiff was retaliated against for complaining about harassment does
25 not suffice to support a plausible claim for relief.

26 Plaintiff also has a right to avoid the involuntary administration of antipsychotic
27 medication in the absence of due process, but his right is not unfettered and the bare assertion that
28

1 he cannot be forcibly medicated is neither accurate under the law nor sufficient to support a viable
2 claim for relief. *Washington v. Harper*, 494 U.S. 210, 221-22, 110 S.Ct. 1028 (1990).

3 **III. Conclusion and Order**

4 Plaintiff's complaint fails to state any claims upon which relief may be granted under
5 section 1983. The Court will provide Plaintiff with the opportunity to file an amended complaint.
6 *Akhtar v. Mesa*, 698 F.3d 1202, 1212-13 (9th Cir. 2012); *Lopez v. Smith*, 203 F.3d 1122, 1130 (9th
7 Cir. 2000). Plaintiff's amended complaint should be brief, Fed. R. Civ. P. 8(a), but it must state
8 what each named defendant did that led to the deprivation of Plaintiff's federal rights and liability
9 may not be imposed on supervisory personnel under the theory of mere *respondeat superior*,
10 *Iqbal*, 556 U.S. at 676-77; *Starr v. Baca*, 652 F.3d 1202, 1205-07 (9th Cir. 2011), *cert. denied*,
11 132 S.Ct. 2101 (2012). Although accepted as true, the "[f]actual allegations must be [sufficient] to
12 raise a right to relief above the speculative level. . . ." *Twombly*, 550 U.S. at 555 (citations
13 omitted). Finally, an amended complaint supercedes the original complaint, *Lacey*, 693 F.3d at
14 907 n.1, and it must be "complete in itself without reference to the prior or superceded pleading,"
15 Local Rule 220.

16 Accordingly, it is HEREBY ORDERED that:

- 17 1. Plaintiff's complaint is dismissed, with leave to amend, for failure to state a claim
18 under section 1983;
- 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: March 16, 2015

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE