

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

ARCHIE CRANFORD,)	Case No.: 1:14-cv-00921-SAB (PC)
)	
Plaintiff,)	
)	
v.)	ORDER DISMISSING FIRST AMENDED
)	COMPLAINT, WITH LEAVE TO AMEND, FOR
ANTONIA OKPALA,)	FAILURE TO STATE A COGNIZABLE CLAIM
)	UPON WHICH RELIEF MAY BE GRANTED
Defendant.)	
)	
)	[ECF No. 9
)	

Plaintiff Archie Cranford is a civil detainee proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. Individuals detained pursuant to California Welfare and Institutions Code § 6600 et seq. are civil detainees and are not prisoners within the meaning of the Prison Litigation Reform Act. Page v. Torrey, 201 F.3d 1136, 1140 (9th Cir. 2000). Pursuant to 28 U.S.C. § 636(c), Plaintiff consented to the jurisdiction of the United States Magistrate Judge on January 7, 2015. Local Rule 302.

Now pending before the Court is Plaintiff's first amended complaint, filed January 23, 2015.

I.

SCREENING REQUIREMENT

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

1 pleader is entitled to relief. . . .” Fed. R. Civ. P. 8(a)(2). Detailed factual allegations are not required,
2 but “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory
3 statements, do not suffice,” Ashcroft v. Iqbal, 556 U.S. 662, 678, 129 S.Ct. 1937 (2009) (citing Bell
4 Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 127 S.Ct. 1955 (2007)), and courts “are not required to
5 indulge unwarranted inferences,” Doe I v. Wal-Mart Stores, Inc., 572 F.3d 677, 681 (9th Cir. 2009)
6 (internal quotation marks and citation omitted). While factual allegations are accepted as true, legal
7 conclusions are not. Iqbal, 556 U.S. at 678.

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

17 II.

18 COMPLAINT ALLEGATIONS

19 Since May 2014, Plaintiff has made multiple attempts to get Defendant Okpala to set an
20 appointment to see the unit doctor at Coalinga State Hospital. Each and every time Plaintiff has
21 requested an appointment, Defendant states that she would make the appointment and each following
22 day Plaintiff is replaced by a different patient based on priority. Plaintiff contends that Defendant
23 denied him medical attention based on racial discrimination in prioritizing patients in need of medical
24 care based on their race.

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III.

DISCUSSION

A. Denial of Medical Attention

As a civil detainee, Plaintiff is entitled to treatment more considerate than that afforded pretrial detainees or convicted criminals. Jones v. Blanas, 393 F.3d 918, 931-32 (9th Cir. 2004). Plaintiff's right to constitutionally adequate conditions of confinement is protected by the substantive component of the Due Process Clause. Youngberg v. Romeo, 457 U.S. 307, 315 (1982).

A determination whether Plaintiff's rights were violated requires "balancing of his liberty interests against the relevant state interests." Youngberg, 457 U.S. at 321. Plaintiff is "entitled to more considerate treatment and conditions of confinement than criminals whose conditions of confinement are designed to punish," but the Constitution requires only that courts ensure that professional judgment was exercised. Youngberg, 457 U.S. at 321-22. A "decision, if made by a professional, is presumptively valid; liability may be imposed only when the decision by the professional is such a substantial departure from accepted professional judgment, practice, or standards as to demonstrate that the person responsible actually did not base the decision on such a judgment." Id. at 322-23; *compare* Clouthier v. County of Contra Costa, 591 F.3d 1232, 1243-44 (9th Cir. 2010) (rejecting the Youngberg standard and applying the deliberate indifference standard to a pretrial detainee's right to medical care, and noting that pretrial detainees, who are confined to ensure presence at trial, are not similarly situated to those civilly committed). The professional judgment standard is an objective standard and it equates "to that required in ordinary tort cases for a finding of conscious indifference amounting to gross negligence." Ammons v. Washington Dep't of Soc. & Health Servs., 648 F.3d 1020, 1029 (9th Cir. 2011) (citations and internal quotation marks omitted).

Plaintiff contends that Defendant Okpala failed to set up an appointment with a doctor by engaging in racial discrimination by the prioritization of the patients. Although Plaintiff contends that Defendant Okpala improperly prioritized detainees medical attention based on their race, Plaintiff's allegations are insufficient to determine if Plaintiff's claim is plausible. Plaintiff's claim is nothing more than a legal conclusory assertion that Defendant Okpala's actions were motivated by racial discrimination and not based on a legitimate medical explanation. Plaintiff does not indicate the

1 specific factual circumstances surrounding his request and Defendant's denial of medical attention,
2 and without such information the Court cannot determine whether Plaintiff states a plausible claim for
3 relief.

4 IV.

5 CONCLUSION AND ORDER

6 For the reasons stated, Plaintiff's amended complaint fails to state a claim upon which relief
7 may be granted. Plaintiff is granted leave to file an amended complaint within thirty (30) days. Noll
8 v. Carlson, 809 F.2d 1446, 1448-49 (9th Cir. 1987). Plaintiff may not change the nature of this suit by
9 adding new, unrelated claims in his amended complaint. George v. Smith, 507 F.3d 605, 607 (7th Cir.
10 2007) (no "buckshot" complaints).

11 Plaintiff's amended complaint should be brief, Fed. R. Civ. P. 8(a), but must state what each
12 named defendant did that led to the deprivation of Plaintiff's constitutional or other federal rights.
13 Iqbal, 556 U.S. 662, 678. "The inquiry into causation must be individualized and focus on the duties
14 and responsibilities of each individual defendant whose acts or omissions are alleged to have caused a
15 constitutional deprivation." Leer v. Murphy, 844 F.2d 628, 633 (9th Cir. 1988). Although accepted as
16 true, the "[f]actual allegations must be [sufficient] to raise a right to relief above the speculative level .
17 . ." Twombly, 550 U.S. at 555 (citations omitted).

18 Finally, an amended complaint supersedes the original complaint, Forsyth v. Humana, Inc.,
19 114 F.3d 1467, 1474 (9th Cir. 1997); King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987), and must be
20 "complete in itself without reference to the prior or superseded pleading," Local Rule 220. "All
21 causes of action alleged in an original complaint which are not alleged in an amended complaint are
22 waived." King, 814 F.2d at 567 (citing to London v. Coopers & Lybrand, 644 F.2d 811, 814 (9th Cir.
23 1981)); accord Forsyth, 114 F.3d at 1474.

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

- 25 1. The Clerk's Office shall send Plaintiff a civil rights complaint form;
- 26 2. Plaintiff's complaint, filed January 23, 2015, is dismissed for failure to state a claim;
- 27 3. Within **thirty (30) days** from the date of service of this order, Plaintiff shall file an
28 amended complaint; and

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

IT IS SO ORDERED.

Dated: January 29, 2015


UNITED STATES MAGISTRATE JUDGE