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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BRUCE WAYNE MILLER,

 Plaintiff,

 v.

ROBERT WITHROW,

 Defendant.

Case No. 1:14-cv-01011-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

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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 27, 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 Robert Withrow, the Medical Director at CSH.
14 Plaintiff alleges that Defendant Withrow refuses to stop the involuntary medication of Plaintiff,
15 and he is accepting the “false diagnosis and lies” of unlicensed acting doctor Glenn Vega.¹ (Doc.
16 1, Comp., p. 2.)

17 Under section 1983, Plaintiff must link the named defendants to the participation in the
18 violation at issue. *Iqbal*, 556 U.S. at 676-77; *Simmons v. Navajo County, Ariz.*, 609 F.3d 1011,
19 1020-21 (9th Cir. 2010); *Ewing v. City of Stockton*, 588 F.3d 1218, 1235 (9th Cir. 2009); *Jones v.*
20 *Williams*, 297 F.3d 930, 934 (9th Cir. 2002). Liability may not be imposed under a theory of
21 *respondeat superior*, and there must exist some causal connection between the conduct of each
22 named defendant and the violation at issue. *Iqbal*, 556 U.S. at 676-77; *Lemire v. California Dep’t*
23 *of Corr. and Rehab.*, 726 F.3d 1062, 1074-75 (9th Cir. 2013); *Lacey v. Maricopa County*, 693
24 F.3d 896, 915-16 (9th Cir. 2012) (en banc); *Starr v. Baca*, 652 F.3d 1202, 1205-08 (9th Cir. 2011),
25 *cert. denied*, 132 S.Ct. 2101 (2012).

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28 ¹ Plaintiff’s allegation that Dr. Vega is unlicensed is incorrect. The Court takes judicial notice of the fact that Glenn
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 In general, as a civil detainee, Plaintiff is entitled to treatment more considerate than that
2 afforded pretrial detainees or convicted criminals, *Jones v. Blanas*, 393 F.3d 918, 931-32 (9th Cir.
3 2004), and Plaintiff’s right to constitutionally adequate conditions of confinement is protected by
4 the substantive component of the Due Process Clause, *Youngberg v. Romeo*, 457 U.S. 307, 315,
5 102 S.Ct. 2452 (1982). A determination whether Plaintiff’s rights were violated requires
6 “balancing of his liberty interests against the relevant state interests.” *Youngberg*, 457 U.S. at 321.
7 Plaintiff is “entitled to more considerate treatment and conditions of confinement than criminals
8 whose conditions of confinement are designed to punish,” but the Constitution requires only that
9 courts ensure that professional judgment was exercised. *Youngberg*, 457 U.S. at 321-22.

10 While Plaintiff has a right to avoid the involuntary administration of antipsychotic
11 medication in the absence of due process, the right is not unfettered and his intimation that he
12 cannot be forcibly medicated is neither accurate under the law nor sufficient to support a viable
13 claim for relief. *Washington v. Harper*, 494 U.S. 210, 221-22, 110 S.Ct. 1028 (1990).
14 Accordingly, the Court finds that Plaintiff fails to state a claim for relief against Defendant
15 Withrow.

16 **III. Conclusion and Order**

17 Plaintiff’s complaint fails to state any claims upon which relief may be granted under
18 section 1983. The Court will provide Plaintiff with the opportunity to file an amended complaint.²
19 *Akhtar v. Mesa*, 698 F.3d 1202, 1212-13 (9th Cir. 2012); *Lopez v. Smith*, 203 F.3d 1122, 1130 (9th
20 Cir. 2000). Plaintiff’s amended complaint should be brief, Fed. R. Civ. P. 8(a), but it must state
21 what each named defendant did that led to the deprivation of Plaintiff’s federal rights and liability
22 may not be imposed on supervisory personnel under the theory of mere *respondeat superior*,
23 *Iqbal*, 556 U.S. at 676-77; *Starr v. Baca*, 652 F.3d 1202, 1205-07 (9th Cir. 2011), *cert. denied*,
24 132 S.Ct. 2101 (2012). Although accepted as true, the “[f]actual allegations must be [sufficient] to
25 raise a right to relief above the speculative level. . . .” *Twombly*, 550 U.S. at 555 (citations
26 omitted). Finally, an amended complaint supercedes the original complaint, *Lacey*, 693 F.3d at
27

28 ² Plaintiff filed a separate action against Dr. Vega on June 16, 2014. The two actions may be subject to future consolidation.

1 907 n.1, and it must be “complete in itself without reference to the prior or superceded pleading,”
2 Local Rule 220.

3 Accordingly, it is HEREBY ORDERED that:

- 4 1. Plaintiff’s complaint is dismissed, with leave to amend, for failure to state a claim
5 under section 1983;
- 6 2. The Clerk’s Office shall send Plaintiff a civil rights complaint form;
- 7 3. Within **thirty (30) days** from the date of service of this order, Plaintiff shall file an
8 amended complaint; and
- 9 4. If Plaintiff fails to file an amended complaint in compliance with this order, this
10 action will be dismissed, with prejudice, for failure to state a claim.

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IT IS SO ORDERED.

Dated: March 23, 2015

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE