

1 **I. MOTION FOR DISCOVERY**

2 Plaintiff's motion for discovery cites various rules regarding the computation of
3 time, but otherwise is incomprehensible. (ECF No. 15.) Plaintiff appears to argue that his
4 complaint is ready for service because it was filed two and a half years ago. (ECF No.
5 15.) Plaintiff is incorrect. His initial complaint was filed on July 21, 2014 and, in any
6 event, his second amended complaint has not yet been screened. Unless and until the
7 Court finds plaintiff has stated a cognizable claim and authorizes him to proceed with it
8 and serve it upon defendants and defendants answer, no discovery will be authorized.

9 Accordingly, his motion for discovery will be denied.

10 **II. THE COMPLAINT**

11 **A. Screening Requirement**

12 The in forma pauperis statute provides, "Notwithstanding any filing fee, or any
13 portion thereof, that may have been paid, the court shall dismiss the case at any time if
14 the court determines that . . . the action or appeal . . . fails to state a claim upon which
15 relief may be granted." 28 U.S.C. § 1915(e)(2)(B)(ii).

16 **B. Pleading Standard**

17 Section 1983 "provides a cause of action for the deprivation of any rights,
18 privileges, or immunities secured by the Constitution and laws of the United States."
19 Wilder v. Virginia Hosp. Ass'n, 496 U.S. 498, 508 (1990) (quoting 42 U.S.C. § 1983).
20 Section 1983 is not itself a source of substantive rights, but merely provides a method for
21 vindicating federal rights conferred elsewhere. Graham v. Connor, 490 U.S. 386, 393-94
22 (1989).

23 To state a claim under § 1983, a plaintiff must allege two essential elements:
24 (1) that a right secured by the Constitution or laws of the United States was violated and
25 (2) that the alleged violation was committed by a person acting under the color of state
26 law. See West v. Atkins, 487 U.S. 42, 48 (1988); Ketchum v. Alameda Cnty., 811 F.2d
27 1243, 1245 (9th Cir. 1987).

1 A complaint must contain “a short and plain statement of the claim showing that
2 the pleader is entitled to relief” Fed. R. Civ. P. 8(a)(2). Detailed factual allegations
3 are not required, but “[t]hreadbare recitals of the elements of a cause of action,
4 supported by mere conclusory statements, do not suffice.” Ashcroft v. Iqbal, 556 U.S.
5 662, 678 (2009) (citing Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007)).
6 Plaintiff must set forth “sufficient factual matter, accepted as true, to state a claim to relief
7 that is plausible on its face.” Id. Facial plausibility demands more than the mere
8 possibility that a defendant committed misconduct and, while factual allegations are
9 accepted as true, legal conclusions are not. Id. at 677-78.

10 **C. Plaintiff’s Allegations**

11 Plaintiff is detained at Coalinga State Hospital (“CSH”), where the acts giving rise
12 to his complaint occurred. Although Plaintiff’s prior complaints listed several defendants,
13 the second amended complaint identifies only Defendant Pam Ahlin.

14 Plaintiff’s allegations can be summarized essentially as follows:

15 Plaintiff was assaulted twice in his dorm. “Defendants” were made aware of the
16 assaults by way of Plaintiff filing a patient’s rights complaint and sending a letter to “the
17 authorities” in Sacramento. Defendants did nothing in response to Plaintiff’s complaints.

18 Plaintiff seeks to be placed in a single room with two specific hospital employees
19 placed in his room in alternating mandatory shifts as a security measure. Alternatively,
20 he seeks “1299 billion” in damages.

21 **D. Analysis**

22 The Fourteenth Amendment provides the standard for evaluating the
23 constitutionally protected interests of individuals who have been involuntarily committed
24 to a state facility. Rivera v. Rogers, 224 Fed. Appx. 148, 150–51 (3d Cir. 2007); see
25 Youngberg v. Romeo, 457 U.S. 307, 312 (1982). In determining whether the
26 constitutional rights of an involuntarily committed individual have been violated, the court
27 must balance the individual’s liberty interests against the relevant state interests, with
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1 deference shown to the judgment exercised by qualified professionals. Youngberg, 457
2 U.S. at 320-22.

3 Plaintiff's right to constitutionally adequate conditions of confinement is protected
4 by the substantive component of the Due Process Clause. Id. at 315. He is "entitled to
5 more considerate treatment and conditions of confinement than criminals whose
6 conditions of confinement are designed to punish," but the Constitution requires only that
7 courts ensure that professional judgment was exercised. Id. at 321-22.

8 A "decision, if made by a professional, is presumptively valid; liability may be
9 imposed only when the decision by the professional is such a substantial departure from
10 accepted professional judgment, practice, or standards as to demonstrate that the
11 person responsible actually did not base the decision on such a judgment." Id. at 322-
12 23. The professional judgment standard is an objective standard and it equates "to that
13 required in ordinary tort cases for a finding of conscious indifference amounting to gross
14 negligence." Ammons v. Wash. Dep't of Soc. & Health Servs., 648 F.3d 1020, 1029 (9th
15 Cir. 2011) (citations and emphasis omitted).

16 Plaintiff's second amended complaint suffers from the same deficiencies as his
17 prior complaints. Plaintiff alleges that he was assaulted twice, and that Defendants
18 thereafter did not respond to his complaints. However, it is unclear from the complaint
19 whether or how Defendant Ahlin may have been aware of Plaintiff's complaints.
20 Plaintiff's conclusory statement that all of the "Defendants" were aware of his complaint
21 is insufficient to state a claim. It also is unclear whether Plaintiff suffered further assaults
22 after his complaints, and thus whether Defendant Ahlin may be said to have failed to
23 protect Plaintiff from such further assaults. Plaintiff has not alleged facts to show that
24 Defendant Ahlin was aware that he was assaulted or at risk for further assaults.

25 The Complaint does not indicate that Defendant Ahlin exhibited a conscious
26 indifference amounting to gross negligence. See Ammons, 648 F.3d at 1029. While
27 Plaintiff has a liberty interest in safe conditions of confinement, Youngberg, 457 U.S. at
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1 315, and care that is professionally acceptable, id. at 321, his allegations are not
2 sufficient to state a claim under applicable standards.

3 Plaintiff previously was advised of these deficiencies. His failure to cure them
4 reasonably is construed as reflecting his inability to do so. Further leave to amend would
5 be futile and will be denied.

6 **III. CONCLUSION AND ORDER**

7 Plaintiff's second amended complaint does not state a claim upon which relief
8 may be granted. Plaintiff was advised in the prior screening orders of deficiencies in his
9 claims and was given the opportunity to correct them. Plaintiff has failed to do so, and no
10 useful purpose would be served in allowing yet another opportunity to amend.

11 Accordingly, based on the foregoing, it is HEREBY ORDERED that:

- 12 1. Plaintiff's motion for discovery (ECF No. 15) is HEREBY DENIED;
- 13 2. The action is DISMISSED WITH PREJUDICE for failure to state a claim,
14 and
- 15 3. Any and all pending motions shall be terminated and the Clerk of the Court
16 shall CLOSE this case.

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18 IT IS SO ORDERED.

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20 Dated: November 24, 2014

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE