

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

AARON WALLACE,)	Case No.: 1:14-cv-01293-SAB (PC)
)	
Plaintiff,)	
)	
v.)	ORDER DISMISSING COMPLAINT, WITH
)	LEAVE TO AMEND, FOR FAILURE TO STATE
)	A COGNIZABLE CLAIM FOR RELIEF
DONALD SPECTER, et al.,)	
)	[ECF No. 1]
Defendants.)	
)	
)	

Plaintiff Aaron Wallace is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Pursuant to 28 U.S.C. § 636(c), Plaintiff consented to the jurisdiction of the United States magistrate judge on September 10, 2014. Local Rule 302.

Plaintiff filed the complaint on August 18, 2014.

I.

SCREENING REQUIREMENT

The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally “frivolous or malicious,” that “fails to state a claim on which relief may be granted,” or that “seeks monetary relief against a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2)(B).

1 A complaint must contain “a short and plain statement of the claim showing that the pleader is
2 entitled to relief. . . .” Fed. R. Civ. P. 8(a)(2). Detailed factual allegations are not required, but
3 “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements,
4 do not suffice.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (citing Bell Atlantic Corp. v. Twombly,
5 550 U.S. 544, 555 (2007)). Plaintiff must demonstrate that each named defendant personally
6 participated in the deprivation of his rights. Iqbal, 556 U.S. at 676-677; Simmons v. Navajo County,
7 Ariz., 609 F.3d 1011, 1020-1021 (9th Cir. 2010).

8 Prisoners proceeding pro se in civil rights actions are still entitled to have their pleadings
9 liberally construed and to have any doubt resolved in their favor, but the pleading standard is now
10 higher, Wilhelm v. Rotman, 680 F.3d 1113, 1121 (9th Cir. 2012) (citations omitted), and to survive
11 screening, Plaintiff’s claims must be facially plausible, which requires sufficient factual detail to allow
12 the Court to reasonably infer that each named defendant is liable for the misconduct alleged. Iqbal,
13 556 U.S. at 678-79; Moss v. U.S. Secret Serv., 572 F.3d 962, 969 (9th Cir. 2009). The “sheer
14 possibility that a defendant has acted unlawfully” is not sufficient, and “facts that are ‘merely
15 consistent with’ a defendant’s liability” falls short of satisfying the plausibility standard. Iqbal, 556
16 U.S. at 678; Moss, 572 F.3d at 969.

17 II.

18 COMPLAINT ALLEGATIONS

19 Plaintiff names Donald Spector (Director of California Department of Corrections and
20 Rehabilitation), K. Currie, N. Navarro, D. Devarro, A. Gonzalez, L. Edmonds, C. Love, and Emilio
21 Reynoso as Defendants.

22 Based on the illegibility of Plaintiff’s handwriting and vague nature of the facts presented in
23 the complaint, the Court cannot determine the nature of Plaintiff’s claim(s) for relief. The factual
24 allegations of Plaintiff’s complaint consist of one paragraph containing incomplete sentences. As far
25 as the Court can decipher, Plaintiff appears to raise allegations relating to medical services provided
26 and/or not provided to him at Corcoran State Prison. To the extent Plaintiff attempts to raise an Eighth
27 Amendment challenge to his medical treatment, the Court will provide the applicable legal standard.
28 In addition, Plaintiff appears to reference interference with his ability to file inmate grievances and/or

1 access to the court. The Court will likewise provide Plaintiff the applicable legal standards for such
2 claims.

3 **III.**

4 **DISCUSSION**

5 **A. Legibility of Complaint**

6 Plaintiff's complaint is largely illegible. Plaintiff is advised that he must submit "clearly
7 legible" pleadings. Local Rule 130(b). Although the complaint may be handwritten, it must be
8 legible. Plaintiff is cautioned that if the Court cannot read his complaint, it cannot order service upon
9 any defendants. In addition, Plaintiff's complaint must contain "a short and plain statement of the
10 claim showing that [Plaintiff] is entitled to relief..." Fed. R. Civ. P. 8(a)(2). "Each allegation must
11 be simple, concise, and direct." Fed. R. Civ. P. 8(d)(1). Plaintiff will be given an opportunity to file
12 an amended complaint that is legible. The following sections of this order notify Plaintiff of the
13 general legal standards applicable to any future pleading.

14 **B. Exhaustion of Administrative Remedies**

15 By the PLRA, Congress amended 42 U.S.C. §1997e to provide that "[n]o action shall be
16 brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by
17 a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies
18 as are available are exhausted." 42 U.S.C. § 1997e(a). The exhaustion requirement "applies to all
19 inmate suits about prison life, whether they involve general circumstances or particular episodes, and
20 whether they allege excessive force or some other wrong." Porter v. Nussle, 534 U.S. 516, 532
21 (2002).

22 The PLRA exhaustion requirement is not jurisdictional but rather creates an affirmative
23 defense that defendants must plead and prove. Jones, 747 F.3d at 1166. Thus, inmates are not
24 required to specifically plead or demonstrate exhaustion in their complaints. Albino holds that, in
25 general, the defense should be brought as a Rule 56 motion for summary judgment, unless in the rare
26 event that the prisoner's failure to exhaust is clear on the face of the complaint. Albino, 747 F.3d
27 1168-1169, 1171.

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1 **C. Linkage Requirement**

2 Section 1983 imposes two essential proof requirements upon a claimant: (1) that a person
3 acting under color of state law committed the conduct at issue, and (2) that the conduct deprived the
4 claimant of some right, privilege, or immunity protected by the Constitution or laws of the United
5 States.” Leer v. Murphy, 844 F.2d 628, 632-633 (9th Cir. 1988).

6 Under section 1983, Plaintiff must link the named defendants to the participation in the
7 violation at issue. Ashcroft v. Iqbal, 556 U.S. 662, 676-677 (2009); Simmons v. Navajo County,
8 Ariz., 609 F.3d 1011, 1020-21 (9th Cir. 2010); Ewing v. City of Stockton, 588 F.3d 1218, 1235 (9th
9 Cir. 2009); Jones v. Williams, 297 F.3d 930, 934 (9th Cir. 2002). Liability may not be imposed under
10 a theory of *respondeat superior*, and there must exist some causal connection between the conduct of
11 each named defendant and the violation at issue. Iqbal, 556 U.S. at 676-77; Lemire v. California
12 Dep’t of Corr. and Rehab., 726 F.3d 1062, 1074-75 (9th Cir. 2013); Lacey v. Maricopa County, 693
13 F.3d 896, 915-16 (9th Cir. 2012) (en banc); Starr v. Baca, 652 F.3d 1202, 1205-08 (9th Cir. 2011).

14 **D. Deliberate Indifference to Serious Medical Need**

15 While the Eighth Amendment of the United States Constitution entitles Plaintiff to medical
16 care, the Eighth Amendment is violated only when a prison official acts with deliberate indifference to
17 an inmate’s serious medical needs. Snow v. McDaniel, 681 F.3d 978, 985 (9th Cir. 2012), overruled
18 in part on other grounds, Peralta v. Dillard, 744 F.3d 1076, 1082-83 (9th Cir. 2014); Wilhelm v.
19 Rotman, 680 F.3d 1113, 1122 (9th Cir. 2012); Jett v. Penner, 439 F.3d 1091, 1096 (9th Cir. 2006).
20 Plaintiff “must show (1) a serious medical need by demonstrating that failure to treat [his] condition
21 could result in further significant injury or the unnecessary and wanton infliction of pain,” and (2) that
22 “the defendant’s response to the need was deliberately indifferent.” Wilhelm, 680 F.3d at 1122 (citing
23 Jett, 439 F.3d 1091, 1096 (9th Cir. 2006)). Deliberate indifference is shown by “(a) a purposeful act
24 or failure to respond to a prisoner’s pain or possible medical need, and (b) harm caused by the
25 indifference.” Wilhelm, 680 F.3d at 1122 (citing Jett, 439 F.3d at 1096). The requisite state of mind
26 is one of subjective recklessness, which entails more than ordinary lack of due care. Snow, 681 F.3d
27 at 985 (citation and quotation marks omitted); Wilhelm, 680 F.3d at 1122.

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1 .” Twombly, 550 U.S. at 555 (citations omitted).

2 Finally, an amended complaint supersedes the original complaint, Forsyth v. Humana, Inc.,
3 114 F.3d 1467, 1474 (9th Cir. 1997); King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987), and must be
4 “complete in itself without reference to the prior or superseded pleading,” Local Rule 220. “All
5 causes of action alleged in an original complaint which are not alleged in an amended complaint are
6 waived.” King, 814 F.2d at 567 (citing to London v. Coopers & Lybrand, 644 F.2d 811, 814 (9th Cir.
7 1981)); accord Forsyth, 114 F.3d at 1474.

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

- 9 1. The Clerk’s Office shall send Plaintiff an amended civil rights complaint form;
- 10 2. Plaintiff’s complaint, filed August 18, 2014, is dismissed for failure to state a claim;
- 11 3. Within **thirty (30) days** from the date of service of this order, Plaintiff shall file an
12 amended complaint; and
- 13 4. If Plaintiff fails to file an amended complaint in compliance with this order, this action
14 will be dismissed, with prejudice, for failure to state a claim.

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16 IT IS SO ORDERED.

17 Dated: **December 3, 2014**

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UNITED STATES MAGISTRATE JUDGE