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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

PHILLIP PATINO,)	1:14-cv-02040-BAM
)	
Plaintiff,)	ORDER DISMISSING COMPLAINT WITH
)	LEAVE TO AMEND
v.)	(ECF No. 1)
)	
AUDREY KING,)	THIRTY-DAY DEADLINE
)	
Defendant.)	
)	
)	

Plaintiff Phillip Patino (“Plaintiff”) is a civil detainee proceeding pro se and in forma pauperis in this civil rights action. Plaintiff’s complaint, filed on December 22, 2014, is currently before the Court for screening pursuant to 28 U.S.C. § 1915.

I. Screening Requirement

“Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that ... the action or appeal ... 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, 173 L.Ed.2d 868 (2009) (citing *Bell Atl. Corp. v. Twombly*, 550.S. 544, 555 (2007)). Plaintiff must set forth “sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on

1 its face.” Id. (quoting Twombly, 550 U.S. at 570). While factual allegations are accepted as true,
2 legal conclusions are not. Id.

3 **II. Allegations in Complaint**

4 Plaintiff names Audrey King, Executive Director of Coalinga State Hospital, as the sole
5 defendant. Plaintiff alleges as follows:

6 Defendant Audrey King & her agents at Coalinga State Hospital failed to protect
7 plaintiff on 10-12-14 & because of their deliberate indifference plaintiff was
8 viciously assaulted by Patient Corey Bell around 1100 hrs. Plaintiff suffered two
9 fractures in his skull, left eye area, causing eye damage, and required surgical
10 staples for a severed artery in his mouth. The Defendant and her agents knew that
11 patient Bell was a danger to others with prior such assaults & took no action to
12 protect plaintiff. Plaintiff is a civil detainee and therefore the PLRA does not
13 apply to this case.

14 (ECF No. 1, p. 3.) Plaintiff seeks compensatory and punitive damages, along with
15 immediate release from civil detention.

16 **III. Discussion**

17 Plaintiff’s complaint fails to comply with Federal Rule of Civil Procedure 8 and fails to
18 state a cognizable claim. Plaintiff will be given an opportunity to amend his complaint to state a
19 claim. To assist Plaintiff, the Court provides the applicable pleading and legal standards.

20 **A. Federal Rule of Civil Procedure 8**

21 Pursuant to Federal Rule of Civil Procedure 8, a complaint must contain “a short and
22 plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a).
23 Detailed factual allegations are not required, but “[t]hreadbare recitals of the elements of a cause
24 of action, supported by mere conclusory statements, do not suffice.” Iqbal, 556 U.S. at 678
25 (citation omitted). Plaintiff must set forth “sufficient factual matter, accepted as true, to ‘state a
26 claim to relief that is plausible on its face.’” Iqbal, 556 U.S. at 678 (quoting Twombly, 550 U.S.
27 at 555). While factual allegations are accepted as true, legal conclusions are not. Id.; see also
28 Twombly, 550 U.S. at 556–557.

1 Here, Plaintiff's complaint is short, but does not contain a plain statement of his claims
2 showing that he is entitled to relief. Plaintiff's allegations are not sufficient to clearly state what
3 happened, including any precipitating events.

4 **B. Linkage Requirement**

5 The Civil Rights Act under which this action was filed provides:

6 Every person who, under color of [state law] ... subjects, or causes to be
7 subjected, any citizen of the United States ... to the deprivation of any rights,
8 privileges, or immunities secured by the Constitution ... shall be liable to the party
injured in an action at law, suit in equity, or other proper proceeding for redress.

9 42 U.S.C. § 1983. The statute plainly requires that there be an actual connection or link between
10 the actions of the defendants and the deprivation alleged to have been suffered by Plaintiff. See
11 Monell v. Dep't of Soc. Servs., 436 U.S. 658, 98 S.Ct. 2018, 56 L.Ed.2d 611 (1978); Rizzo v.
12 Goode, 423 U.S. 362, 96 S.Ct. 598, 46 L.Ed.2d 561 (1976). The Ninth Circuit has held that “[a]
13 person ‘subjects’ another to the deprivation of a constitutional right, within the meaning of
14 section 1983, if he does an affirmative act, participates in another’s affirmative acts, or omits to
15 perform an act which he is legally required to do that causes the deprivation of which complaint
16 is made.” Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir.1978).

17 Here, Plaintiff fails to link Defendant Audrey King to a constitutional violation. Plaintiff
18 may not simply make conclusory statements regarding a defendant. Plaintiff will be given leave
19 to cure this deficiency. If Plaintiff elects to amend his complaint, he must allege what each
20 individual defendant did or did not do that resulted in a violation of his rights.

21 **C. Failure to Protect**

22 As a civil detainee, Plaintiff's right to personal safety is protected by the substantive
23 component of the Due Process Clause of the Fourteenth Amendment. Youngberg v. Romeo, 457
24 U.S. 307, 315 (1982). Under this provision of the Constitution, Plaintiff is “entitled to more
25 considerate treatment and conditions of confinement than criminals whose conditions of
26 confinement are designed to punish.” Jones v. Blanas, 393 F.3d 918, 931 (9th Cir. 2004)
27 (quoting Youngberg, 457 U.S. at 321-22); cf. Clouthier v. County of Contra Costa, 591 F.3d
28 1232, 1243-44 (9th Cir. 2010) (pretrial detainees, who are confined to ensure their presence at

1 trial, are afforded only those protections provided by the Eighth Amendment). Thus, to avoid
2 liability, Defendant’s decisions must be supported by “professional judgment.” Youngberg, 457
3 U.S. at 323. A defendant fails to use professional judgment when his or her decision is “such a
4 substantial departure from accepted professional judgment, practice, or standards as to
5 demonstrate that [he or she] did not base the decision on such a judgment.” Youngberg, 457 U.S.
6 at 323.

7 Here, Plaintiff’s allegations fail to state a claim for failure to protect. The Court cannot
8 ascertain from Plaintiff’s allegations what happened, where it happened or what defendant did or
9 did not do that violated Plaintiff’s constitutional rights. For example, Plaintiff has not included
10 any specific factual allegations demonstrating that Defendant knew of any risk of harm to
11 Plaintiff from another patient, specifically Corey Bell. Plaintiff’s conclusory statements are not
12 sufficient to state a claim. Plaintiff will be given leave to amend his complaint to cure these
13 deficiencies.

14 To the extent Plaintiff seeks to impose liability against Defendant Audrey King in her role as
15 supervisor, he may not do so. Supervisory personnel may not be held liable under section 1983
16 for the actions of subordinate employees based on respondeat superior or vicarious liability.
17 Crowley v. Bannister, 734 F.3d 967, 977 (9th Cir. 2013); accord Lemire v. California Dep’t of
18 Corr. and Rehab., 726 F.3d 1062, 1074–75 (9th Cir. 2013); Lacey v. Maricopa County, 693 F.3d
19 896, 915–16 (9th Cir. 2012) (en banc). “A supervisor may be liable only if (1) he or she is
20 personally involved in the constitutional deprivation, or (2) there is a sufficient causal connection
21 between the supervisor's wrongful conduct and the constitutional violation.” Crowley, 734 F.3d
22 at 977 (internal quotation marks omitted); accord Lemire, 726 F.3d at 1074–75; Lacey, 693 F.3d
23 at 915–16. “Under the latter theory, supervisory liability exists even without overt personal
24 participation in the offensive act if supervisory officials implement a policy so deficient that the
25 policy itself is a repudiation of constitutional rights and is the moving force of a constitutional
26 violation.” Crowley, 734 F.3d at 977 (citing Hansen v. Black, 885 F.2d 642, 646 (9th Cir.1989))
27 (internal quotation marks omitted).

