

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DELL PULLETT,

Plaintiff,

vs.

J. CASTELLANOS, *et al.*,

Defendants.

Case No. 1:15-cv-00755-RRB

ORDER DISMISSING
SECOND AMENDED COMPLAINT

Pending before the Court is the Second Amended Complaint filed by Plaintiff Dell Pullett, a California state prisoner appearing *pro se* and *in forma pauperis*, under 42 U.S.C. § 1983 against officials of the California Department of Corrections and Rehabilitation.¹ Pullett's Second Amended Complaint arises out of his incarceration at the California Substance Abuse and Treatment Facility, Corcoran ("CSATF"). Pullett is currently incarcerated at the R. J. Donovan Correctional Center, San Diego.

I. SCREENING REQUIREMENT

This Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity.² The Court

¹ In his Second Amended Complaint Pullett names as Defendants J. Castellanos, Correctional Officer, and John Does 1 and 2.

² 28 U.S.C. § 1915A(a).

set forth the standards applicable to screening in its initial Dismissal Order;³ therefore, the Court does not repeat them herein.

II. PRIOR DISMISSAL ORDER

In dismissing the First Amended Complaint the Court permitted Pullett to amend with respect to his Third Cause of Action, an Eighth Amendment claim as against a correctional officer, J. Castellanos, and the John Doe Defendants that arose out of a stabbing incident that occurred while Pullett was walking unescorted between his cell and the infirmary on May 13, 2013.⁴

III. GRAVAMEN OF SECOND AMENDED COMPLAINT

Pullett's Second Amended Complaint consists of ten paragraphs. The first two paragraphs appear to refer to Pullett's attempts to exhaust his administrative remedies with respect to a CDC-115 (Rules Violation Report) related to an incident that occurred on May 9, 2011. Paragraphs 3 through 7 appear to provide a basis for an apparent failure to respond to the May 9, 2011, CDC-115. Paragraphs 8 and 9 appear to address Pullett's inability to identify the two John Doe Defendants. Paragraph 10 simply incorporates the first nine paragraphs.

IV. DISCUSSION

Plaintiff's Second Amended Complaint, which refers to an incident that occurred two years prior to the stabbing incident for which the Court granted Plaintiff leave to amend,

³ Docket 9.

⁴ Docket 13, pp. 14–15.

does not comply with the Court's Order dismissing the First Amended Complaint. The Court may dismiss an action for failure to comply with an order of the Court.⁵ The Second Amended Complaint clearly fails to comply with the Court's earlier dismissal order.

V. ORDER

The Second Amended Complaint is **DISMISSED** with leave to amend.

Pullett is granted through and including **Friday, March 4, 2016**, within which to file a Third Amended Complaint consistent with this Order and the first Dismissal Order.⁶

Failure to comply with this Order within the time specified, or such additional time as the Court may grant, may result in the dismissal of this action without further notice.

IT IS SO ORDERED this 25th day of January, 2016.

S/ RALPH R. BEISTLINE
UNITED STATES DISTRICT JUDGE

⁵ See Fed. R. Civ. P. 41(b).

⁶ Docket 9.