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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ARCHIE CRANFORD,

 Plaintiff,

 v.

DR. RISLEY,

 Defendant.

Case No. 1:15-cv-00949 LJO DLB PC

FINDINGS AND RECOMMENDATIONS
REGARDING DISMISSAL OF ACTION FOR
FAILURE TO STATE A CLAIM

THIRTY-DAY DEADLINE

Plaintiff Archie Cranford (“Plaintiff”), a civil detainee proceeding pro se and in forma pauperis, filed this civil rights action on June 24, 2015.

On October 28, 2015, the Court screened his complaint and dismissed it with leave to amend. Plaintiff filed his First Amended Complaint on November 16, 2015.

The Court screened Plaintiff’s First Amended Complaint on February 25, 2016, and dismissed it with leave to amend. He filed his Second Amended Complaint on March 8, 2016.¹ He names Dawnmarie Risley as the sole Defendant.

A. LEGAL STANDARD

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. §

¹ Plaintiff’s document is titled, “Motion for Second Amended Complaint,” and contains his factual allegations. The motion is not on a form complaint. However, given that Plaintiff was due to file an amended complaint and this filing included his factual allegations, the Court will consider this to be his Second Amended Complaint.

1 1915(e)(2)(B)(ii). 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 are not
3 required, but “[t]hreadbare recitals of the elements of a cause of action, supported by mere
4 conclusory statements, do not suffice,” Ashcroft v. Iqbal, 556 U.S. 662, 678, 129 S.Ct. 1937 (2009)
5 (citing Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 127 S.Ct. 1955 (2007)), and courts “are
6 not required to indulge unwarranted inferences,” Doe I v. Wal-Mart Stores, Inc., 572 F.3d 677, 681
7 (9th Cir. 2009) (internal quotation marks and citation omitted). While factual allegations are
8 accepted as true, legal conclusions are not. Iqbal, 556 U.S. at 678.

9 Pro se litigants are entitled to have their pleadings liberally construed and to have any doubt
10 resolved in their favor, Wilhelm v. Rotman, 680 F.3d 1113, 1121-23 (9th Cir. 2012); Hebbe v. Pliler,
11 627 F.3d 338, 342 (9th Cir. 2010), but Plaintiff’s claims must be facially plausible to survive
12 screening, which requires sufficient factual detail to allow the Court to reasonably infer that each
13 named defendant is liable for the misconduct alleged, Iqbal, 556 U.S. at 678 (quotation marks
14 omitted); Moss v. U.S. Secret Service, 572 F.3d 962, 969 (9th Cir. 2009). The sheer possibility that
15 a defendant acted unlawfully is not sufficient, and mere consistency with liability falls short of
16 satisfying the plausibility standard. Iqbal, 556 U.S. at 678 (quotation marks omitted); Moss, 572
17 F.3d at 969.

18 **B. SUMMARY OF PLAINTIFF’S ALLEGATIONS**

19 Plaintiff is currently incarcerated at Coalinga State Hospital (“CSH”) in Coalinga, California,
20 where the events at issue occurred.

21 Defendant is a psychologist at CSH, and was working under another doctor’s license. When
22 she began working in Unit 1, Plaintiff was on a safe dose of lithium. However, when Defendant
23 took over the presiding doctor’s duties, Defendant raised the dose. Plaintiff’s dose is supposed to be
24 monitored by blood draws every month. Plaintiff contends that Defendant permitted him to go “well
25 beyond” the standard amount of time prior to checking the medication level.
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1 Plaintiff contends that the dose was too high and that he became very sick. He had to spend
2 time in an outside hospital, when he had his gallbladder removed. The doctor who performed the
3 removal told him that the organ had “rotted away” due to lithium poisoning. ECF No. 16, at 1.

4 Plaintiff alleges that Defendant failed to monitor his lithium level, as she should have done.
5 He contends that he cannot take pain medications containing aspirin and therefore had to endure
6 certain amounts of pain after the surgery.

7 **C. ANALYSIS**

8 The courts have commonly applied Eighth Amendment standards to claims made by civil
9 detainees under the Fourteenth Amendment. See e.g., Frost v. Agnos, 152 F.3d 1124, 1128 (9th
10 Cir.1998) (applying Eighth Amendment standards to evaluate pretrial detainees’ Fourteenth
11 Amendment claims).

12 While the Eighth Amendment of the United States Constitution entitles Plaintiff to medical
13 care, the Eighth Amendment is violated only when a prison official acts with deliberate indifference
14 to an inmate’s serious medical needs. Snow v. McDaniel, 681 F.3d 978, 985 (9th Cir. 2012),
15 overruled in part on other grounds, Peralta v. Dillard, 744 F.3d 1076, 1082-83 (9th Cir. 2014);
16 Wilhelm v. Rotman, 680 F.3d 1113, 1122 (9th Cir. 2012); Jett v. Penner, 439 F.3d 1091, 1096 (9th
17 Cir. 2006). Plaintiff “must show (1) a serious medical need by demonstrating that failure to treat
18 [his] condition could result in further significant injury or the unnecessary and wanton infliction of
19 pain,” and (2) that “the defendant’s response to the need was deliberately indifferent.” Wilhelm, 680
20 F.3d at 1122 (citing Jett, 439 F.3d at 1096).

21 Deliberate indifference is shown by “(a) a purposeful act or failure to respond to a prisoner’s
22 pain or possible medical need, and (b) harm caused by the indifference.” Wilhelm, 680 F.3d at 1122
23 (citing Jett, 439 F.3d at 1096). The requisite state of mind is one of subjective recklessness, which
24 entails more than ordinary lack of due care. Snow, 681 F.3d at 985 (citation and quotation marks
25 omitted); Wilhelm, 680 F.3d at 1122.

1 In the first screening order, the Court found that Plaintiff's allegations were too vague to state
2 a claim for relief. The Court gave specific examples of facts that were missing- such as how
3 Defendant failed to monitor his medication, or how she was, in any way, involved in his treatment.

4 In the order screening his First Amended Complaint, the Court explained that Plaintiff added
5 little, if any, new factual information. Without additional facts relating to Defendant's treatment, the
6 Court could not determine whether Defendant acted with deliberate indifference.

7 In his latest amendment, Plaintiff again fails to correct this deficiency. While he continues to
8 allege that Defendant increased his lithium dose and failed to properly monitor the level of
9 medication, he does not provide any facts to suggest that she "[knew] of and disregard[ed] an
10 excessive risk to [plaintiff's] health or safety." Farmer, 511 U.S. at 837. He again fails to provide
11 specific facts relating to her treatment, and he therefore fails to state a claim for which relief may be
12 granted.

13 **D. CONCLUSION AND ORDER**

14 Plaintiff has had two opportunities to correct the deficiencies in his claim, but he has failed to
15 do so. The Court informed Plaintiff in the prior screening order that this would be his final
16 opportunity to amend. As Plaintiff continues to provide insufficient facts to show that Defendant
17 acted with deliberate indifference, the Court finds that further leave to amend is not warranted.

18 Therefore, the Court recommends that this action be DISMISSED WITHOUT LEAVE TO
19 AMEND for failure to state a claim for which relief may be granted.

20 These Findings and Recommendations will be submitted to the United States District Judge
21 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within thirty (30)
22 days after being served with these Findings and Recommendations, Plaintiff may file written
23 objections with the Court. The document should be captioned "Objections to Magistrate Judge's
24 Findings and Recommendations." Plaintiff is advised that failure to file objections within the ///

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1 specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834,
2 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

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4 IT IS SO ORDERED.

5 Dated: May 17, 2016

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE

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