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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ARTHUR R. JONES,
Plaintiff,

v.

E. MEDDLY,
Defendants.

Case No. 1:17-cv-00109-SAB (PC)

ORDER DISMISSING COMPLAINT WITH
LEAVE TO AMEND FOR FAILURE TO
STATE A CLAIM

(ECF No. 1)

THIRTY DAY DEADLINE

Plaintiff Arthur R. Jones is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Currently before the Court is Plaintiff’s complaint, filed January 24, 2017.

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 “fail[] to state a claim on which relief may be granted,” or that “seek[] monetary relief against a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2)(B).

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1 A complaint must contain “a short and plain statement of the claim showing that the
2 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 (2009) (citing Bell
5 Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007)). Moreover, Plaintiff must demonstrate
6 that each defendant personally participated in the deprivation of Plaintiff’s rights. Jones v.
7 Williams, 297 F.3d 930, 934 (9th Cir. 2002).

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

17 II.

18 DISCUSSION

19 Plaintiff brings this action alleging that after showering on January 23, 2016, while being
20 escorted to his cell with his hands cuffed behind his back, Correctional Officer Meddly did not
21 ensure that he had a secure hold of Plaintiff’s arm and Plaintiff fell down the metal staircase in
22 the housing unit causing Plaintiff to be injured. (Compl. 3-4.) Plaintiff alleges that Correctional
23 Officer Meddly’s actions violated his right to be free from cruel and unusual punishment under
24 the Eighth Amendment and he is seeking monetary damages.

25 The Eighth Amendment’s prohibition against cruel and unusual punishment protects
26 prisoners not only from inhumane methods of punishment but also from inhumane conditions of
27 confinement. Morgan v. Morgensen, 465 F.3d 1041, 1045 (9th Cir. 2006) (citing Farmer v.
28 Brennan, 511 U.S. 825, 847 (1994) and Rhodes v. Chapman, 452 U.S. 337, 347 (1981))

1 (quotation marks omitted). While conditions of confinement may be, and often are, restrictive
2 and harsh, they must not involve the wanton and unnecessary infliction of pain. Morgan, 465
3 F.3d at 1045 (citing Rhodes, 452 U.S. at 347) (quotation marks omitted). Thus, conditions
4 which are devoid of legitimate penological purpose or contrary to evolving standards of decency
5 that mark the progress of a maturing society violate the Eighth Amendment. Morgan, 465 F.3d
6 at 1045 (quotation marks and citations omitted); Hope v. Pelzer, 536 U.S. 730, 737 (2002);
7 Rhodes, 452 U.S. at 346.

8 To prove a violation of the Eighth Amendment, the plaintiff must “objectively show that
9 he was deprived of something ‘sufficiently serious,’ and make a subjective showing that the
10 deprivation occurred with deliberate indifference to the inmate’s health or safety.” Thomas v.
11 Ponder, 611 F.3d 1144, 1150 (9th Cir. 2010) (citations omitted). Deliberate indifference requires
12 a showing that “prison officials were aware of a “substantial risk of serious harm” to an inmate’s
13 health or safety and that there was no “reasonable justification for the deprivation, in spite of that
14 risk.” Thomas, 611 F.3d at 1150 (quoting Farmer, 511 U.S. at 844). The circumstances, nature,
15 and duration of the deprivations are critical in determining whether the conditions complained of
16 are grave enough to form the basis of a viable Eighth Amendment claim. Johnson v. Lewis, 217
17 F.3d 726, 731

18 Plaintiff has not alleged any facts to show that Correctional Officer Meddly was aware
19 that Plaintiff was at a substantial risk of harm by the manner in which he was escorting Plaintiff
20 from the showers. While Plaintiff alleges that Correctional Officer Meddly failed to have a
21 secure hold on him in violation of the departmental procedures and common practice, that is not
22 sufficient to show more than mere negligence. Negligence is insufficient to state an Eighth
23 Amendment claim. Farmer, 511 U.S. at 835 (more than negligence is required to violate the
24 Eighth Amendment).

25 As currently pled, the Court finds that Plaintiff has failed to allege facts to show that
26 Correctional Officer Meddly was acting with conscious disregard to Plaintiff’s safety while he
27 was escorting Plaintiff back to his cell. Plaintiff shall be granted an opportunity to file an
28 amended complaint to cure the deficiencies identified herein

1 IV.

2 CONCLUSION AND ORDER

3 Plaintiff's complaint fails to state a cognizable claim for a violation of his federal rights.
4 The Court will provide Plaintiff with the opportunity to file an amended complaint curing the
5 deficiencies identified by the Court in this order. Noll v. Carlson, 809 F.2d 1446, 1448-49 (9th
6 Cir. 1987). Plaintiff may not change the nature of this suit by adding new, unrelated claims in
7 his amended complaint. George v. Smith, 507 F.3d 605, 607 (7th Cir. 2007) (no "buckshot"
8 complaints).

9 If Plaintiff opts to amend, his amended complaint should be brief. Fed. R. Civ. P. 8(a).
10 Plaintiff must identify how each individual defendant caused the deprivation of Plaintiff's
11 constitutional or other federal rights: "The inquiry into causation must be individualized and
12 focus on the duties and responsibilities of each individual defendant whose acts or omissions are
13 alleged to have caused a constitutional deprivation." Leer v. Murphy, 844 F.2d 628, 633 (9th
14 Cir. 1988).

15 Although Plaintiff's factual allegations will be accepted as true and "the pleading
16 standard Rule 8 announces does not require 'detailed factual allegations,' " "a complaint must
17 contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its
18 face.' " Iqbal, 556 U.S. at 678 (quoting Twombly, 550 U.S. at 555). "A claim has facial
19 plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable
20 inference that the defendant is liable for the misconduct alleged." Iqbal, 556 U.S. at 678. With
21 respect to exhibits, while they are permissible if incorporated by reference, Fed. R. Civ. P. 10(c),
22 they are not necessary in the federal system of notice pleading, Fed. R. Civ. P. 8(a).

23 Plaintiff is advised that an amended complaint supersedes the original complaint.
24 Forsyth v. Humana, Inc., 114 F.3d 1467, 1474 (9th Cir. 1997); King v. Atiyeh, 814 F.2d 565,
25 567 (9th Cir. 1987). The amended complaint must be "complete in itself without reference to the
26 prior or superseded pleading." Local Rule 220. Plaintiff is warned that "[a]ll causes of action
27 alleged in an original complaint which are not alleged in an amended complaint are waived."
28 King, 814 F.2d at 567 (citing London v. Coopers & Lybrand, 644 F.2d 811, 814 (9th Cir. 1981));

1 accord Forsyth, 114 F.3d at 1474.

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

- 3 1. The Clerk’s Office shall send Plaintiff a civil rights complaint form;
- 4 2. Plaintiff’s complaint, filed January 24, 2017, is dismissed with leave to amend;
- 5 3. Within thirty (30) days from the date of service of this order, Plaintiff shall file an
6 amended complaint curing the deficiencies identified by the Court in this order;
7 and
- 8 4. If Plaintiff fails to comply with this order, this action will be dismissed for failure
9 to state a claim.

10 IT IS SO ORDERED.

11 Dated: May 9, 2017

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13 _____
14 UNITED STATES MAGISTRATE JUDGE