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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JOHN WILLIAMS,  
Plaintiff,  
vs.  
DAVID DAVEY, et al.,  
Defendants.

1:17-cv-00300-GSA-PC

**SCREENING ORDER**

**ORDER DISMISSING COMPLAINT FOR  
FAILURE TO STATE A CLAIM, WITH  
LEAVE TO AMEND  
(ECF No. 1.)**

**THIRTY-DAY DEADLINE FOR  
PLAINTIFF TO FILE AMENDED  
COMPLAINT**

**ORDER FOR CLERK TO SEND  
PLAINTIFF A CIVIL COMPLAINT FORM**

**I. BACKGROUND**

John Williams (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. On March 3, 2017, Plaintiff filed the initial Complaint, which is now before the court for screening. (ECF No. 1.)

**II. 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).

1 The court must dismiss a complaint or portion thereof if the prisoner has raised claims that are  
2 legally “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or  
3 that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C.  
4 § 1915A(b)(1),(2). “Notwithstanding any filing fee, or any portion thereof, that may have been  
5 paid, the court shall dismiss the case at any time if the court determines that the action or  
6 appeal fails to state a claim upon which relief may be granted.” 28 U.S.C. § 1915(e)(2)(B)(ii).

7 A complaint is required to contain “a short and plain statement of the claim showing  
8 that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). Detailed factual allegations are  
9 not required, but “[t]hreadbare recitals of the elements of a cause of action, supported by mere  
10 conclusory statements, do not suffice.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (citing Bell  
11 Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007)). While a plaintiff’s allegations are  
12 taken as true, courts “are not required to indulge unwarranted inferences.” Doe I v. Wal-Mart  
13 Stores, Inc., 572 F.3d 677, 681 (9th Cir. 2009) (internal quotation marks and citation omitted).  
14 To state a viable claim, Plaintiff must set forth “sufficient factual matter, accepted as true, to  
15 ‘state a claim to relief that is plausible on its face.’” Iqbal, 556 U.S. at 678-79; Moss v. U.S.  
16 Secret Service, 572 F.3d 962, 969 (9th Cir. 2009). While factual allegations are accepted as  
17 true, legal conclusions are not. Id. The mere possibility of misconduct falls short of meeting  
18 this plausibility standard. Id.

### 19 **III. SUMMARY OF COMPLAINT**

20 Plaintiff is presently incarcerated at Corcoran State Prison in Corcoran, California, in  
21 the custody of the California Department of Corrections and Rehabilitation (CDCR), where the  
22 events at issue in the Complaint allegedly occurred. Plaintiff names as defendants Warden  
23 David Davey, CCI E. Cantu, and Lieutenant (Lt.) Edward Sanchez (collectively,  
24 “Defendants”).

25 Plaintiff’s allegations in the Complaint are rambling and difficult to follow. Plaintiff  
26 appears to allege that he was confined in the ASU (Administrative Segregation Unit) for 100  
27 days while awaiting a decision by the ICC (Institutional Classification Committee). Plaintiff  
28 alleges that he had been cleared by the last prison to be placed in mainline housing, not ASU,

1 and defendant Lt. Sanchez placed him in ASU for no reason. Plaintiff alleges that defendant E.  
2 Cantu, Plaintiff's case worker, placed false information in Plaintiff's file just so there would be  
3 a reason to detain Plaintiff in ASU for something he had been cleared of at the other prison.  
4 Plaintiff alleges that defendant Warden Davey could have intervened to have him released from  
5 ASU but never did. Plaintiff filed prison appeals but could not get his copy of the ICC hearings  
6 and therefore could not get past the first step of filing an appeal without it being turned down.  
7 By the time Plaintiff won an appeal he had lost time that he cannot get back. Plaintiff asserts  
8 that he could have paroled on June 2, 2017, but since he was in ASU he could not get the  
9 program and now will not be released until January 3, 2018. Plaintiff also alleges that he was  
10 held hostage and his life was placed in danger by living with people he should not have been  
11 housed with. Plaintiff claims he suffered mental damage and cruel and unusual punishment  
12 because of his ASU detention.

13 Plaintiff seeks monetary damages.

#### 14 **IV. PLAINTIFF'S CLAIMS**

##### 15 **A. Section 1983**

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

17 Every person who, under color of any statute, ordinance, regulation, custom, or  
18 usage, of any State or Territory or the District of Columbia, subjects, or causes  
19 to be subjected, any citizen of the United States or other person within the  
20 jurisdiction thereof to the deprivation of any rights, privileges, or immunities  
secured by the Constitution and laws, shall be liable to the party injured in an  
action at law, suit in equity, or other proper proceeding for redress . . . .

21 42 U.S.C. § 1983.

22 “[Section] 1983 ‘is not itself a source of substantive rights,’ but merely provides ‘a  
23 method for vindicating federal rights elsewhere conferred.’” Graham v. Connor, 490 U.S. 386,  
24 393-94 (1989) (quoting Baker v. McCollan, 443 U.S. 137, 144 n.3 (1979)); see also Chapman  
25 v. Houston Welfare Rights Org., 441 U.S. 600, 618 (1979); Hall v. City of Los Angeles, 697  
26 F.3d 1059, 1068 (9th Cir. 2012); Crowley v. Nevada, 678 F.3d 730, 734 (9th Cir. 2012);  
27 Anderson v. Warner, 451 F.3d 1063, 1067 (9th Cir. 2006). “To the extent that the violation of

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1 a state law amounts to the deprivation of a state-created interest that reaches beyond that  
2 guaranteed by the federal Constitution, Section 1983 offers no redress.” Id.

3 To state a claim under § 1983, a plaintiff must allege that (1) the defendant acted under  
4 color of state law and (2) the defendant deprived him or her of rights secured by the  
5 Constitution or federal law. Long v. County of Los Angeles, 442 F.3d 1178, 1185 (9th Cir.  
6 2006); see also Marsh v. Cnty. of San Diego, 680 F.3d 1148, 1158 (9th Cir. 2012) (discussing  
7 “under color of state law”). A person deprives another of a constitutional right, “within the  
8 meaning of § 1983, ‘if he does an affirmative act, participates in another’s affirmative act, or  
9 omits to perform an act which he is legally required to do that causes the deprivation of which  
10 complaint is made.’” Preschooler II v. Clark Cnty. Sch. Bd. of Trs., 479 F.3d 1175, 1183 (9th  
11 Cir. 2007) (quoting Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978)). “The requisite  
12 causal connection may also be established when an official sets in motion a ‘series of acts by  
13 others which the actor knows or reasonably should know would cause others to inflict’  
14 constitutional harms.” Preschooler II, 479 F.3d at 1183 (quoting Johnson, 588 F.2d at 743).  
15 This standard of causation “closely resembles the standard ‘foreseeability’ formulation of  
16 proximate cause.” Arnold v. Int’l Bus. Mach. Corp., 637 F.2d 1350, 1355 (9th Cir. 1981); see  
17 also Harper v. City of Los Angeles, 533 F.3d 1010, 1026 (9th Cir. 2008).

18 **B. Supervisory Liability – Warden Davey**

19 Plaintiff names defendants who hold supervisory positions. Plaintiff is advised that  
20 “[I]iability under [§] 1983 arises only upon a showing of personal participation by the  
21 defendant. A supervisor is only liable for the constitutional violations of . . . subordinates if the  
22 supervisor participated in or directed the violations, or knew of the violations and failed to act  
23 to prevent them. There is no *respondeat superior* liability under [§] 1983.” Taylor v. List, 880  
24 F.2d 1040, 1045 (9th Cir. 1989) (citations omitted). Plaintiff must demonstrate that each  
25 defendant, through his or her own individual actions, violated Plaintiff’s constitutional rights.  
26 Iqbal, 556 U.S. at 676; Corales v. Bennett, 567 F.3d 554, 570 (9th Cir. 2009). Therefore, to the  
27 extent that Plaintiff seeks to impose liability upon any of the defendants in their supervisory  
28 capacity, Plaintiff fails to state a claim.

1 Plaintiff alleges that defendant Warden Davey could have intervened to have him  
2 released from the ASU, but did not. Plaintiff alleges that Warden Davey “had the power to fix  
3 it a few times and never did,” “allowed me to be put in ASU by Edward Sanchez and did  
4 nothing,” and “allowed E. Cantu to put stuff in my file that was not right.” (ECF No. 1 at 3, 4.)  
5 This is not sufficient to state a claim under § 1983. Plaintiff has not alleged what Warden  
6 Davey did to allow Plaintiff to be placed in ASU, or to allow E. Cantu to place erroneous  
7 material in Plaintiff’s file. It is not enough to use conclusory language alleging that the Warden  
8 “allowed” the behavior. Plaintiff must allege personal acts by Warden Davey showing that  
9 Warden Davey either participated in the violations, or knew that Plaintiff’s rights were being  
10 violated and yet failed to act to prevent or stop the violations. Therefore, Plaintiff fails to state  
11 any cognizable claims against defendant Warden Davey.

12 **C. Due Process – Detention in ASU**

13 The Due Process Clause protects prisoners from being deprived of liberty without due  
14 process of law. Wolff v. McDonnell, 418 U.S. 539, 556 (1974). In order to state a cause of  
15 action for deprivation of procedural due process, a plaintiff must first establish the existence of  
16 a liberty interest for which the protection is sought. Liberty interests may arise from the Due  
17 Process Clause itself or from state law. Hewitt v. Helms, 459 U.S. 460, 466-68 (1983). With  
18 respect to liberty interests arising from state law, the existence of a liberty interest created by  
19 prison regulations is determined by focusing on the nature of the deprivation. Sandin v.  
20 Conner, 515 U.S. 472, 481-84 (1995). Liberty interests created by prison regulations are  
21 limited to freedom from restraint which “imposes atypical and significant hardship on the  
22 inmate in relation to the ordinary incidents of prison life.” Id. at 484.

23 A due process claim is not cognizable where the alleged procedural error has been  
24 corrected through the administrative appeal process. See Frank v. Schultz, 808 F.3d 762, 764  
25 (9th Cir. 2015) citing Wycoff v. Nichols, 94 F.3d 1187, 1189 (8th Cir.1996) (“[T]he  
26 [administrative] reversal of the case against Wycoff constituted part of the due process Wycoff  
27 received, and it cured the alleged due process violation based on the [prison] disciplinary  
28 committee’s initial decision to sanction Wycoff.”); Morissette v. Peters, 45 F.3d 1119, 1122

1 (7th Cir.1995) (per curiam) (“There is no denial of due process if the error the inmate  
2 complains of is corrected in the administrative appeal process. The administrative appeal  
3 process is part of the due process afforded prisoners.” (citation omitted)); Young v. Hoffman,  
4 970 F.2d 1154, 1156 (2d Cir.1992) (per curiam) (“[W]e need not decide whether Young  
5 suffered a denial of due process in connection with his disciplinary hearing, because . . . [t]he  
6 administrative reversal constituted part of the due process protection he received, and it cured  
7 any procedural defect that may have occurred.”).

8 Here, Plaintiff appears to allege that he was wrongfully detained in the ASU awaiting  
9 classification because the paperwork in his file did not show that he had been cleared by the  
10 previous prison to be placed in mainline housing. Plaintiff also appears to allege that after  
11 filing unsuccessful prison appeals he finally won an appeal and was released to mainline  
12 housing. If these allegations are correct, then Plaintiff’s due process claim is not cognizable  
13 because the error in Plaintiff’s housing was corrected through the appeals process. Plaintiff  
14 shall be granted an opportunity to file an amended complaint addressing this issue and re-  
15 stating his allegations more clearly, if he wishes.

16 **D. Due Process -- False Information**

17 Plaintiff alleges that he was detained in ASU because false information was placed in  
18 his file. Plaintiff is advised that there is no due process right to be free from false disciplinary  
19 charges. The falsification of a disciplinary report does not state a standalone constitutional  
20 claim. Canovas v. California Dept. of Corrections, 2:14-cv-2004 KJN P, 2014 WL 5699750,  
21 n.2 (E.D. Cal. 2014); see e.g., Lee v. Whitten, 2:12-cv-2104 GEB KJN P, 2012 WL 4468420,  
22 \*4 (E.D. Cal. 2012). There is no constitutionally guaranteed immunity from being falsely or  
23 wrongly accused of conduct which may result in the deprivation of a protected liberty interest.  
24 Sprouse v. Babcock, 870 F.2d 450, 452 (8th Cir. 1989); Freeman v. Rideout, 808 F.2d 949, 951  
25 (2d Cir. 1986)). “Specifically, the fact that a prisoner may have been innocent of disciplinary  
26 charges brought against him and incorrectly held in administrative segregation does not raise a  
27 due process issue. The Constitution demands due process, not error-free decision-making.”  
28 Jones v. Woodward, 2015 WL 1014257, \*2 (E.D. Cal. 2015) (citing Ricker v. Leapley, 25 F.3d

1 1406, 1410 (8th Cir. 1994); McCrae v. Hankins, 720 F.2d 863, 868 (5th Cir. 1983)). Therefore,  
2 Plaintiff has no protected liberty interest against being falsely accused of a disciplinary  
3 violation, and he fails to state a due process claim based on false information in his file.

4 **E. Eighth Amendment Claim – Deliberate Indifference**

5 Plaintiff indicates in the Complaint that he seeks to bring a claim under the Eighth  
6 Amendment for cruel and unusual punishment.

7 The Eighth Amendment protects prisoners from inhumane methods of punishment and  
8 from inhumane conditions of confinement. Morgan v. Morgensen, 465 F.3d 1041, 1045 (9th  
9 Cir. 2006). Extreme deprivations are required to make out a conditions of confinement claim,  
10 and only those deprivations denying the minimal civilized measure of life’s necessities are  
11 sufficiently grave to form the basis of an Eighth Amendment violation. Hudson v. McMillian,  
12 503 U.S. 1, 9, 112 S.Ct. 995 (1992) (citations and quotations omitted). “An Eighth  
13 Amendment claim that a prison official has deprived inmates of humane conditions of  
14 confinement must meet two requirements, one objective and the other subjective.” Allen v.  
15 Sakai, 48 F.3d 1082, 1087 (9th Cir. 2010) cert. denied, 514 U.S. 1065 (1995). First, the alleged  
16 deprivation must be, in objective terms, “sufficiently serious.” Farmer v. Brennan, 511 U.S.  
17 825, 834, 114 S.Ct. 1970 (1994). Second, subjectively, the prison official must “know of and  
18 disregard an excessive risk to inmate health or safety.” Id. at 837; Anderson v. County of Kern,  
19 45 F.3d 1310, 1313 (9th Cir. 1995). The objective requirement is met if the prison official’s  
20 acts or omissions deprived a prisoner of “the minimal civilized measure of life’s necessities.”  
21 Allen, 48 F.3d at 1087 (quoting Farmer, 511 U.S. at 834 (1994)). To satisfy the subjective  
22 prong, a plaintiff must show more than mere inadvertence or negligence. Neither negligence  
23 nor gross negligence will constitute deliberate indifference. Farmer at 833, & n. 4; Estelle v.  
24 Gamble, 429 U.S. 97, 106 (1976). The Farmer court concluded that “subjective recklessness as  
25 used in the criminal law is a familiar and workable standard that is consistent with the Cruel  
26 and Unusual Punishments Clause” and adopted this as the test for deliberate indifference under  
27 the Eighth Amendment. Farmer at 839-40.

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1 Plaintiff alleges that he was wrongfully held in ASU for 100 days, “suffered hardship  
2 and lost many things to help me.” (ECF No. 1 at 2.) Plaintiff also alleges that he was “held  
3 hostage, put in danger for fear of my life by living with people I should not be housed with.”  
4 (Id. at 3.) These allegations alone are not sufficient to state a claim. It is not enough for  
5 Plaintiff to show that he was deprived of humane conditions of confinement. To state a claim  
6 for deliberate indifference, Plaintiff must allege *facts* showing that a named Defendant *knew*  
7 that Plaintiff was at *substantial risk of serious harm*. Plaintiff must also show that the  
8 Defendant deliberately ignored the risk, *failing to act reasonably* to abate it.

9 Therefore, Plaintiff fails to state an Eighth Amendment claim for deliberate indifference  
10 against any of the Defendants. Plaintiff shall be granted leave to amend the complaint to cure  
11 the deficiencies in this claim.

12 **F. Damages for Mental and Emotional Injuries - Physical Injury Requirement**

13 Plaintiff alleges that he suffered mental damage at the hands of Defendants. Plaintiff is  
14 advised that the Prison Litigation Reform Act provides that “[n]o Federal civil action may be  
15 brought by a prisoner confined in jail, prison, or other correctional facility, for mental and  
16 emotional injury suffered while in custody without a prior showing of physical injury.” 42  
17 U.S.C. § 1997e(e). The physical injury “need not be significant but must be more than *de*  
18 *minimis*.” Oliver v. Keller, 289 F.3d 623, 627 (9th Cir. 2002) ) (back and leg pain and canker  
19 sore *de minimis*); see also Pierce v. County of Orange, 526 F.3d 1190, 1211-13 (9th Cir. 2008)  
20 (bladder infections and bed sores, which pose significant pain and health risks to paraplegics  
21 such as the plaintiff, were not *de minimis*). The physical injury requirement applies only to  
22 claims for mental or emotional injuries and does not bar claims for compensatory, nominal, or  
23 punitive damages. *Id.* at 630. Therefore, Plaintiff is not entitled to monetary damages in this  
24 case for mental damage unless he also shows a physical injury.

25 **V. CONCLUSION AND ORDER**

26 The court finds that Plaintiff’s Complaint fails to state any claim upon which relief may  
27 be granted under § 1983. The court will dismiss the Complaint for failure to state a claim and  
28 give Plaintiff leave to file an amended complaint addressing the issues described above.



1 Under Rule 15(a) of the Federal Rules of Civil Procedure, “[t]he court should freely  
2 give leave to amend when justice so requires.” Accordingly, the court will provide Plaintiff an  
3 opportunity to file an amended complaint curing the deficiencies identified above. Lopez v.  
4 Smith, 203 F.3d 1122, 1126-30 (9th Cir. 2000). Plaintiff is granted leave to file the First  
5 Amended Complaint within thirty days.

6 The First Amended Complaint must allege facts showing what each named defendant  
7 did that led to the deprivation of Plaintiff’s constitutional rights. Fed. R. Civ. P. 8(a); Iqbal,  
8 556 U.S. at 678; Jones v. Williams, 297 F.3d 930, 934 (9th Cir. 2002). Plaintiff must  
9 demonstrate that each defendant *personally* participated in the deprivation of his rights by his  
10 or her actions. Id. at 676-77 (emphasis added).

11 Plaintiff should note that although he has been given the opportunity to amend, it is not  
12 for the purpose of changing the nature of this suit or adding unrelated claims. George v. Smith,  
13 507 F.3d 605, 607 (7th Cir. 2007) (no “buckshot” complaints). Moreover, Plaintiff is not  
14 granted leave to add allegations of events occurring after the date he filed the Complaint,  
15 March 3, 2017.

16 Plaintiff is advised that an amended complaint supercedes the original complaint,  
17 Lacey, 693 F.3d. at 907 n.1, and it must be complete in itself without reference to the prior or  
18 superceded pleading, Local Rule 220. Therefore, in an amended complaint, as in an original  
19 complaint, each claim and the involvement of each defendant must be sufficiently alleged. The  
20 amended complaint should be clearly and boldly titled “First Amended Complaint,” refer to the  
21 appropriate case number, and be an original signed under penalty of perjury.

22 Based on the foregoing, it is **HEREBY ORDERED** that:

- 23 1. Plaintiff’s Complaint is dismissed for failure to state a claim, with leave to  
24 amend;
- 25 2. The Clerk’s Office shall send Plaintiff a civil rights complaint form;
- 26 3. Plaintiff is granted leave to file a First Amended Complaint curing the  
27 deficiencies identified by the court in this order, within **thirty (30) days** from  
28 the date of service of this order;

