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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

PABLO HOLGUIN,	)	Case No.: 1:17-cv-00376-AWI-SAB (PC)
	)	
Plaintiff,	)	
	)	ORDER DISMISSING COMPLAINT, WITH
v.	)	LEAVE TO AMEND, FOR FAILURE TO STATE
	)	A COGNIZABLE CLAIM FOR RELIEF
J. QUALLS,	)	
	)	[ECF No. 1]
Defendant.	)	
	)	
	)	

Plaintiff Pablo Holguin is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff declined United States Magistrate Judge jurisdiction; therefore, this matter was referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.<sup>1</sup>

Currently before the Court is Plaintiff’s complaint, filed March 15, 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

<sup>1</sup> Plaintiff declined United States Magistrate Judge jurisdiction on March 15, 2017. (ECF No. 3.)

1 “frivolous or malicious,” that “fails to state a claim on which relief may be granted,” or that “seeks  
2 monetary relief against a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2)(B).

3 A complaint must contain “a short and plain statement of the claim showing that the pleader is  
4 entitled to relief. . . .” Fed. R. Civ. P. 8(a)(2). Detailed factual allegations are not required, but  
5 “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements,  
6 do not suffice.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (citing Bell Atlantic Corp. v. Twombly,  
7 550 U.S. 544, 555 (2007)). Plaintiff must demonstrate that each named defendant personally  
8 participated in the deprivation of his rights. Iqbal, 556 U.S. at 676-677; Simmons v. Navajo County,  
9 Ariz., 609 F.3d 1011, 1020-1021 (9th Cir. 2010).

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

## 19 II.

### 20 COMPLAINT ALLEGATIONS

21 Plaintiff names correctional officer J. Qualls as the sole Defendant in the complaint. The  
22 events at issue in the complaint took place at Avenal State Prison.

23 On December 5, 2013, at 2:40 p.m., Qualls was distributing prisoner incoming mail, and was  
24 presented with an envelope addressed to Plaintiff. While handling the envelope, Qualls’s attention  
25 was directed to the stamp, which at close inspection revealed contraband. At no time did Plaintiff take  
26 physical possession of the envelope, or have personal knowledge of the specific envelope and letter.  
27 Plaintiff also did not know the female who allegedly sent the letter, Mrs. Marina Ramirez.  
28

1 Qualls proceeded to conduct a careful and extensive search of Plaintiff's locker area and bed  
2 location, but failed to discovery any drug or related paraphernalia.

3 On this same date, Qualls took five photographs, three of the contraband found, and two of  
4 Plaintiff' right arm depicting a rose tattoo with scar tissue in its midst (old needle marks). Qualls  
5 failed to provide the senior hearing officer with the two photographs of Plaintiff's inner-right arm.

6 Qualls subsequently drafted a rules violation report, No. FB-14-01-006 to punish Plaintiff in  
7 violation of the Fourteenth and Eighth Amendments of the United States Constitution. Plaintiff  
8 contends that in drafting the rules violation report, Qualls omitted exculpatory evidence, i.e. the  
9 photographs of Plaintiff's inner-right arm.

10 Plaintiff contends Qualls was fully aware that the contraband found in the stamp of the  
11 envelope failed to meet the requirements for possession or constructive possession of the letter. Qualls  
12 issued the false rules violation report to deprive Plaintiff of certain privileges.

### 13 III.

### 14 DISCUSSION

#### 15 A. Due Process Violation-Fourteenth Amendment

16 The requirements of due process are flexible and the procedural protections required are as the  
17 particular situation demands. Wilkinson, 545 U.S. at 224. Inmates are entitled to certain due process  
18 considerations when subject to disciplinary sanctions. Brown, 751 F.3d at 987. If the inmate is  
19 subjected to a significantly sufficient hardship, "then the court must determine whether the procedures  
20 used to deprive that liberty satisfied Due Process." Ramirez, 334 F.3d at 860.

21 "Prison disciplinary proceedings are not part of a criminal prosecution, and the full panoply of  
22 rights due a defendant in such proceedings does not apply." Wolff v. McDonnell, 418 U.S. 539, 556  
23 (1974). With respect to prison disciplinary proceedings, the minimum procedural requirements that  
24 must be met are: (1) written notice of the charges; (2) at least 24 hours between the time the prisoner  
25 receives written notice and the time of the hearing, so that the prisoner may prepare his defense; (3) a  
26 written statement by the fact finders of the evidence they rely on and reasons for taking disciplinary  
27 action; (4) the right of the prisoner to call witnesses in his defense, when permitting him to do so  
28 would not be unduly hazardous to institutional safety or correctional goals; and (5) legal assistance to

1 the prisoner where the prisoner is illiterate or the issues presented are legally complex. Wolff, 418  
2 U.S. at 563-71. In addition “[s]ome evidence” must support the decision of the hearing officer.  
3 Superintendent v. Hill, 472 U.S. 445, 455 (1985). The standard is not particularly stringent and the  
4 relevant inquiry is whether “there is *any* evidence in the record that could support the conclusion  
5 reached . . . .” Id. at 455-56 (emphasis added).

6 Plaintiff’s due process claim against Defendant Qualls is premised solely on the fact that the  
7 rules violation report was false, and he was placed in the administrative segregation housing unit and  
8 deprived of certain privileges. Plaintiff is advised that the issuance of a false RVR or false crime  
9 report does not, in and of itself, support a claim under section 1983. See, e.g., Ellis v. Foulk, No. 14-  
10 cv-0802 AC P, 2014 WL 4676530, at \*2 (E.D. Cal. Sept. 18, 2014) (“Plaintiff’s protection from the  
11 arbitrary action of prison officials lies in ‘the procedural due process requirements as set forth in Wolff  
12 v. McDonnell.”) (citing Hanrahan v. Lane, 747 F.2d 1137, 1140 (7th Cir. 1984)); Solomon v. Meyer,  
13 No. 11-cv-02827-JST (PR), 2014 WL 294576, at \*2 (N.D. Cal. Jan. 27, 2014) (“[T]here is no  
14 constitutionally protected right to be free from false disciplinary charges.”) (citing Chavira v. Rankin,  
15 No. C 11-5730 CW (PR), 2012 WL 5914913, at \*1 (N.D. Cal. Nov. 26, 2012) (“The Constitution  
16 demands due process, not error-free decision-making.”)); Johnson v. Felker, No. 1:12-cv-02719 GEB  
17 KJN (PC), 2013 WL 6243280, at \*6 (E.D. Cal. Dec. 3, 2013) (“Prisoners have no constitutionally  
18 guaranteed right to be free from false accusations of misconduct, so the mere falsification of a [rules  
19 violation] report does not give rise to a claim under section 1983.”) (citing Sprouse v. Babcock, 870  
20 F.2d 450, 452 (8th Cir. 1989) and Freeman v. Rideout, 808 F.2d 949, 951-53 (2d. Cir. 1986)).  
21 Furthermore, the fact that Plaintiff’s rules violation report was subsequently dismissed pursuant to the  
22 filing of a habeas corpus petition does not demonstrate a due process violation.<sup>2</sup> Accordingly, Plaintiff  
23 fails to state a cognizable due process claim based on his allegations that false reports were written  
24 against him.

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27 <sup>2</sup> On June 16, 2016, the Kern County Superior Court granted the State’s motion to vacate an evidentiary hearing previously  
28 set before that court because the rules violation was dismissed and all credits were restored to Plaintiff. (Compl., Ex. J,  
ECF No. 1.)

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**B. Cruel and Unusual Punishment-Eighth Amendment**

The Eighth Amendment’s prohibition against cruel and unusual punishment protects prisoners not only from inhumane methods of punishment but also from inhumane conditions of confinement. Morgan v. Morgensen, 465 F.3d 1041, 1045 (9<sup>th</sup> Cir. 2006) (citing Farmer v. Brennan, 511 U.S. 825, 847 (1994) and Rhodes v. Chapman, 452 U.S. 337, 347 (1981)) (quotation marks omitted). While conditions of confinement may be, and often are, restrictive and harsh, they must not involve the wanton and unnecessary infliction of pain. Morgan, 465 F.3d at 1045 (citing Rhodes, 452 U.S. at 347) (quotation marks omitted). Thus, conditions which are devoid of legitimate penological purpose or contrary to evolving standards of decency that mark the progress of a maturing society violate the Eighth Amendment. Morgan, 465 F.3d at 1045 (quotation marks and citations omitted); Hope v. Pelzer, 536 U.S. 730, 737 (2002); Rhodes, 452 U.S. at 346.

Prison officials have a duty to ensure that prisoners are provided adequate shelter, food, clothing, sanitation, medical care, and personal safety, Johnson v. Lewis, 217 F.3d 726, 731 (9<sup>th</sup> Cir. 2000) (quotation marks and citations omitted), but not every injury that a prisoner sustains while in prison represents a constitutional violation, Morgan, 465 F.3d at 1045 (quotation marks omitted). To maintain an Eighth Amendment claim, a prisoner must show that prison officials were deliberately indifferent to a substantial risk of harm to his health or safety. Farmer, 511 U.S. at 847; Thomas v. Ponder, 611 F.3d 1144, 1150-51 (9<sup>th</sup> Cir. 2010); Foster v. Runnels, 554 F.3d 807, 812-14 (9<sup>th</sup> Cir. 2009); Morgan, 465 F.3d at 1045; Johnson, 217 F.3d at 731; Frost v. Agnos, 152 F.3d 1124, 1128 (9<sup>th</sup> Cir. 1998).

Although Plaintiff references the Eighth Amendment, he fails to set forth any facts to give rise to a cognizable claim for cruel and unusual punishment. The fact that he alleges Defendant Qualls issued a false rules violation report does not demonstrate cruel and unusual punishment. Accordingly, Plaintiff fails to state a cognizable claim under the Eighth Amendment.

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1 IV.

2 CONCLUSION AND ORDER

3 For the reasons stated, Plaintiff’s complaint fails to state a claim upon which relief may be  
4 granted. Plaintiff is granted leave to file an amended complaint within thirty (30) days. Noll v.  
5 Carlson, 809 F.2d 1446, 1448-49 (9th Cir. 1987). Plaintiff may not change the nature of this suit by  
6 adding new, unrelated claims in his amended complaint. George v. Smith, 507 F.3d 605, 607 (7th Cir.  
7 2007) (no “buckshot” complaints).

8 Plaintiff’s amended complaint should be brief, Fed. R. Civ. P. 8(a), but must state what each  
9 named defendant did that led to the deprivation of Plaintiff’s constitutional or other federal rights.  
10 Iqbal, 556 U.S. 662, 678. “The inquiry into causation must be individualized and focus on the duties  
11 and responsibilities of each individual defendant whose acts or omissions are alleged to have caused a  
12 constitutional deprivation.” Leer v. Murphy, 844 F.2d 628, 633 (9th Cir. 1988). Although accepted as  
13 true, the “[f]actual allegations must be [sufficient] to raise a right to relief above the speculative level. .  
14 . . .” Twombly, 550 U.S. at 555 (citations omitted).

15 Finally, an amended complaint supersedes the original complaint, Forsyth v. Humana, Inc.,  
16 114 F.3d 1467, 1474 (9th Cir. 1997); King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987), and must be  
17 “complete in itself without reference to the prior or superseded pleading,” Local Rule 220. “All  
18 causes of action alleged in an original complaint which are not alleged in an amended complaint are  
19 waived.” King, 814 F.2d at 567 (citing to London v. Coopers & Lybrand, 644 F.2d 811, 814 (9th Cir.  
20 1981)); accord Forsyth, 114 F.3d at 1474.

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

- 22 1. The Clerk’s Office shall send Plaintiff a civil rights complaint form;  
23 2. Plaintiff’s complaint, filed March 15, 2017, is dismissed for failure to state a claim;  
24 3. Within thirty (30) days from the date of service of this order, Plaintiff shall file an  
25 amended complaint; and

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4. If Plaintiff fails to file an amended complaint in compliance with this order, this action will be dismissed for failure to state a claim.

IT IS SO ORDERED.

Dated: June 5, 2017



UNITED STATES MAGISTRATE JUDGE