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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

GEORGE E. JACOBS,  
  
                                Plaintiff,  
  
                  v.  
  
CDCR, et al.,  
  
                                Defendants.

No. 1:17-cv-01599-DAD-JLT (PC)  
  
ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND DISMISSING  
THIS ACTION  
  
(Doc. No. 25)

Plaintiff George E. Jacobs is a state prisoner proceeding *pro se* in this civil rights action brought pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On September 21, 2018, the assigned magistrate judge issued a screening order pursuant to 28 U.S.C. § 1915A(a), finding that plaintiff had failed to state a claim upon which relief may be granted and providing plaintiff with an opportunity to amend his complaint. (Doc. No. 14.) In the screening order, the magistrate judge informed plaintiff that, pursuant to Federal Rule of Civil Procedure 20, he may not bring unrelated claims against multiple defendants in a single lawsuit. (*Id.* at 4–5.) The screening order outlined the pleading requirements under Federal Rules of Civil Procedure 8(a), 18(a) and 20(a)(2) that plaintiff was required to follow in any amended complaint he elected to file. (*Id.* at 2–5.) The screening order also outlined the legal standards applicable to the claims that plaintiff appears to be attempting to assert in his complaint, including claims under

1 the Eighth Amendment for deliberate indifference to serious medical needs, state law claims  
2 under the California Government Tort Claims Act, claims involving supervisor liability, and  
3 claims implicating Eleventh Amendment immunity. (*Id.* at 5–10.)

4 Plaintiff filed a first amended complaint (“FAC”) on December 10, 2018. (Doc. No. 18.)  
5 On May 2, 2019, the assigned magistrate judge issued a second screening order, finding that  
6 plaintiff’s FAC failed to comply with Federal Rules of Civil Procedure 18 and 20. (Doc. No. 19.)  
7 The magistrate judge further found that the amended complaint was excessively long and violated  
8 Federal Rule of Civil Procedure 8. (*Id.* at 3–4.) The magistrate judge again granted plaintiff  
9 leave to amend, instructing him that, “[i]f he [chose] to file a second amended complaint, [he]  
10 shall make it as concise as possible,” and that he “must allege in specific terms how each named  
11 defendant is involved” in any alleged deprivation of plaintiff’s constitutional rights. (*Id.* at 4, 11–  
12 12.) In that second screening order, the magistrate judge again provided guidance to plaintiff on  
13 the pleading requirements and cautioned that “[t]his is the last opportunity Plaintiff will be  
14 provided to comply with Rules 18 and 20.” (*Id.* at 3, 11.) Moreover, the second screening order  
15 warned that “[i]f Plaintiff fails to comply with this order, this action will be dismissed for failure  
16 to obey a court order and for failure to state a claim.” (*Id.* at 12.)

17 Plaintiff filed a second amended complaint (“SAC”) on August 14, 2019. (Doc. No. 23.)  
18 On December 13, 2019, the assigned magistrate judge issued findings and recommendations,  
19 finding that plaintiff’s SAC again violates Rules 8 and 20, and recommending this action be  
20 dismissed due to plaintiff’s failure to comply with the court’s orders. (Doc. No. 25.) In the  
21 pending findings and recommendations, the magistrate judge categorized Plaintiff’s allegations  
22 into nine distinct “transactions,” “occurrences,” or “series of transactions or occurrences,” and  
23 found that they were unrelated for purposes of Rule 20. (*Id.* at 4–5.) The magistrate judge also  
24 found that plaintiff’s SAC was more than 20 pages longer than the FAC and “his fifteen causes of  
25 action are replete with redundancy, legal jargon, and conclusory statements,” despite the magistrate  
26 judge’s screening orders outlining Rule 8’s pleading requirements and instructing plaintiff to  
27 make any amended complaint as concise as possible. (*Id.* at 5–6.) In light of plaintiff’s repeated  
28 failure to comply with the pleading requirements under the Federal Rules of Civil Procedure,

1 despite extensive guidance and direction from the court in this regard, the magistrate judge found  
2 that plaintiff's SAC suffers from the same deficiencies as his prior complaints, and amendment  
3 would be futile. (*Id.*) Accordingly, the magistrate judge recommended this action be dismissed.  
4 (*Id.* at 6.)

5 The findings and recommendations were served on plaintiff and contained notice that any  
6 objections thereto were to be filed within twenty-one (21) days after service. (*Id.*) On March 16,  
7 2020, after receiving two extensions of time to do so, plaintiff filed objections to the pending  
8 findings and recommendations. (Doc. No. 31.)

9 In his objections, plaintiff admits that "his first complaint was written very badly" but  
10 states that he is "confused as to what the issue is with his complaint," and he does not "see any  
11 procedural defects with his complaint in violation of [Rules] 8(a), 18, or 20." (Doc. No. 31 at 2.)

12 First, plaintiff states in his objections that he is confused about why the length of his SAC  
13 (40 handwritten pages) is an issue, particularly because he has filed complaints in his other civil  
14 cases that were just as long or longer. (*Id.* at 2.) Plaintiff contends that this action should not be  
15 dismissed just because his SAC is lengthy. (*Id.*) The undersigned does not interpret the pending  
16 findings and recommendations as recommending dismissal of this action based solely on the  
17 length of plaintiff's SAC, but rather that because plaintiff has failed to comply with Rule 8 and  
18 the court's prior screening orders, the magistrate judge was not able to parse through plaintiff's  
19 SAC to determine whether he has sufficiently stated any cognizable claims against any of the  
20 named defendants. Plaintiff also interpreted the pending findings and recommendations as  
21 recommending dismissal because "plaintiff cited too many causes of action." (*Id.* at 3.) But the  
22 magistrate judge did not find that the *number* of causes of action warranted dismissal of plaintiff's  
23 SAC. Rather, the issue with plaintiff's various causes of action is that they "are replete with  
24 redundancy, legal jargon, and conclusory statements." (Doc. No. 25 at 5.)

25 Second, plaintiff argues that the magistrate judge screened his SAC pursuant to 28 U.S.C.  
26 § 1915A, but the recommendation to dismiss plaintiff's SAC is not based on any of the  
27 enumerated grounds for dismissal stated in 28 U.S.C. § 1915A(b)—that is, if the complaint is  
28 frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks monetary

1 relief from a defendant who is immune from such relief. (*Id.* at 5) (citing 28 U.S.C. § 1915A(b)).  
2 According to plaintiff, the magistrate judge could only have recommended dismissal of his SAC  
3 based on one of those enumerated grounds, not based on a failure to comply with Rules 8(a), 18,  
4 or 20. (*Id.* at 5.) Plaintiff is mistaken. A complaint may be dismissed due to failure to comply  
5 with a court order or failure to comply with the Federal Rules of Civil Procedure. *See* Fed. R.  
6 Civ. P. 41(b); *see also* *McHenry v. Renne*, 84 F.3d 1172, 1180 (9th Cir. 1996) (“the district court  
7 did not abuse its discretion in dismissing the entire complaint for violation of Rule 8 and of the  
8 court’s orders”); *Knapp v. Harrison*, No. CV 06-7702-JVS(RC), 2008 WL 4334683, at \*1 (C.D.  
9 Cal. Sept. 12, 2008) (finding that a second amended complaint failed to comply with Rule 8 and  
10 dismissing action with prejudice under Rule 41(b)).

11 Third, plaintiff contends that the magistrate judge’s reasons for recommending dismissal  
12 of his SAC—that plaintiff may not join unrelated claims against multiple defendants in a single  
13 action and that he fails to show how the alleged occurrences are related—are misguided and  
14 contrary to law. (*Id.* at 8.) However, plaintiff cites only to case law regarding proper pleading of  
15 alternative legal theories of recovery based on the same set of circumstances. (*Id.* at 8.) None of  
16 plaintiff’s arguments, or the legal authority he cites in support thereof, call into question the  
17 magistrate judge’s analysis of whether plaintiff’s SAC complied with the requirements of Rules  
18 18 and 20. Plaintiff states that his SAC “has 8 defendants and 15 causes of actions [sic] all  
19 arising from a single event, plaintiff’s broken arm & ensuing medical treatment thereafter which  
20 expanded to a 5 month stay in the prison’s medical facility, resulting in injuries still present to  
21 this day.”<sup>1</sup> (*Id.* at 3.) Plaintiff further contends that joinder is proper in this case because: all of

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22 <sup>1</sup> Plaintiff believes the magistrate judge misstated the number of defendants named in plaintiff’s  
23 SAC as ten defendants, because he contends that he only listed 8 defendants therein. (Doc. No.  
24 31 at 11.) The undersigned has reviewed the SAC and agrees with the magistrate judge that  
25 plaintiff has in fact named ten defendants: (1) CDCR; (2) Clark, Chief Medical Officer of CSP-  
26 Corcoran; (3) K. Aye, Chief Physician and Surgeon at CSP-Corcoran; (4) Miranda, L.V.N.  
27 Technician at CSP-Corcoran; (5) John Doe # 1, Chief Mental Health Services Doctor employed  
28 by CDCR; (6) Jane Doe # 1, custodial officer employed by CDCR; (7) Sgt. John Doe # 2,  
custodial officer employed by CDCR; (8) John Doe # 3, custodial officer employed by CDCR to  
transport prisoners for medical care; (9) John Doe # 4, custodial officer employed by CDCR to  
transport prisoners for medical care; and (10) John Doe # 5, Physician Doctor at CSP-Corcoran.  
(*See* Doc. No. 23 at 9–12.) The fact that plaintiff believes that he only listed 8 defendants

1 the alleged occurrences “transpired at CSP-Corcoran – long term housing infirmary, where  
2 plaintiff was situated due to the severity of his injury from November 13, 2015–May 2016”; all  
3 defendants were “employees at CSP-Corcoran and assigned to their post” in the infirmary; and  
4 “plaintiff came in contact with these defendants on a daily basis.” (*Id.* at 9.) Plaintiff argues that  
5 even if there is a misjoinder of the parties in his SAC, the court should “drop a party” or “sever a  
6 claim against a party, but not dismiss the action.” (*Id.* at 9) (citing Fed. R. Civ. P. 21)).

7         Despite plaintiff’s assertion that all of his claims arise from the single event of his broken  
8 arm, plaintiff does not actually show how all of the alleged occurrences are related. For example,  
9 it was unclear to the magistrate judge, and remains unclear to the undersigned as it would to  
10 anyone reading the SAC, how plaintiff’s broken arm is related to his lip laceration, or to his being  
11 handcuffed while he was transported to the hospital for his hernia surgery, or to his being denied  
12 a soft diet when he was suffering from a stomach virus. Moreover, as far as the undersigned can  
13 discern from the SAC, different defendants were involved in each of these alleged occurrences.  
14 Thus, the undersigned agrees with the magistrate judge’s findings that plaintiff has improperly  
15 joined claims and defendants in violation of Rules 18 and 20. The undersigned also agrees with  
16 the caution given to plaintiff in the second screening order that “[t]he fact that all of Plaintiff’s  
17 allegations are based on the same type of constitutional violation (i.e. deliberate indifference to  
18 different medical needs) does not make claims related for purposes of Rule 18(a).” (Doc. No. 19  
19 at 6.) Although plaintiff is correct that under Rule 21, “[m]isjoinder of parties is not a ground for  
20 dismissing an action,” and “the court may at any time, on just terms, add or drop a party” and  
21 “may also sever any claim against a party,” plaintiff’s failure to comply with Rule 8 makes that  
22 approach impractical; it is not possible to discern which defendant(s) to drop and/or which claims  
23 to sever. Plaintiff’s SAC does not clearly identify which of the many named defendants he brings  
24 each of his fifteen causes of action against. In addition, the titles of plaintiff’s various the causes  
25 of action do not provide any clarity because many of those causes of action have identical titles.

26  
27 supports this court’s determination that plaintiff’s SAC violates Rule 8 and lacks sufficient  
28 clarity, making it difficult to discern against which defendant plaintiff is attempting to bring each  
of his various claims.

1 In sum, plaintiff's objections do not provide any basis upon which to reject the pending  
2 findings and recommendations. In addition, under the circumstances of this case as outlined  
3 above, it is apparent that granting further leave to amend would be futile because plaintiff has no  
4 intention of curing the deficiencies that have been pointed out to him in great detail by the  
5 screening orders.

6 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a  
7 *de novo* review of this case. Having carefully reviewed the entire file, including plaintiff's  
8 objections, the court finds the findings and recommendations to be supported by the record and  
9 by proper analysis.

10 Accordingly,

- 11 1. The findings and recommendations issued on December 13, 2019 (Doc. No. 25)  
12 are adopted;
- 13 2. This action is dismissed due to plaintiff's failure to obey a court order and failure  
14 to comply with Federal Rules of Civil Procedure 8 and 20; and
- 15 3. The Clerk of the Court is directed to close this case.

16 IT IS SO ORDERED.

17 Dated: April 22, 2020

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20 UNITED STATES DISTRICT JUDGE