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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). 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).

A complaint must contain “a short and plain statement of the claim showing that the pleader is entitled to relief. . . .” Fed. R. Civ. P. 8(a)(2). Detailed factual allegations are not required, but “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (citing Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007)). Moreover, Plaintiff must demonstrate that each defendant personally participated in the deprivation of Plaintiff’s rights. Jones v. Williams, 297 F.3d 930, 934 (9th Cir. 2002).

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

III.

SUMMARY OF ALLEGATIONS

Plaintiff names as defendants R. Manroy, a CCI counselor at Salinas Valley State Prison, and the “whole Department of Corrections.” (Am. Compl. 2.) It appears a page listing additional defendants may be missing. The caption indicates that Plaintiff may have also intended to name R. Dossey, M. Diaz, W. L. Muniz, Bermudez, and John and Jane Doe unknown agents. (Id. at 1.)

1 Plaintiff's amended complaint is a 15-page critical statement against numerous people and
2 agencies, raising numerous issues. He generally asserts that various friends and family members, and
3 various people in Kern County, are experiencing a violation of their rights due to conduct by police
4 departments and correctional officers. Some of these issues involve surveillance, including video and
5 audio prison surveillance, the internet, law firms, the falsification of documents and fraud, promotion
6 of drug use, aiding gang members, and other matters that are not entirely clear.

7 Plaintiff states that he names the "whole Department of Corrections" as a defendant because all
8 officers are in a gang. (*Id.* at 5.) Also, he states that correctional officers change depending on where
9 he is, such that he cannot identify any specific officer at fault for his complaints, although he generally
10 alleges that a warden is at fault in all circumstances because a warden oversees officers and prisons.
11 Plaintiff also alleges that there are ongoing issues of harassment, improper surveillance, and other
12 violations of rights at Salinas Valley State Prison, where he is currently held. Plaintiff also complains
13 of improper things being on the radio, television, and computers, and what seems to be general
14 societal harms. Plaintiff alleges that there are general problems with law enforcement, prosecution,
15 and incarceration.

16 Regarding himself specifically, Plaintiff complains of an issue regarding transfers and housing,
17 and states that correctional staff is unprofessional. Plaintiff also states that he has problems with his
18 mail, and problems with attempting to exhaust his administrative remedies. No specific events, dates,
19 or people are identified, and his allegations are conclusory.

20 Plaintiff asserts violations of the First, Sixth, Eight, and Fourteenth Amendments and the
21 Uniform Commercial Code, and seeks damages and injunctive relief.

22 IV.

23 DISCUSSION

24 A. Federal Rule of Civil Procedure 8

25 Plaintiff has been previously advised that a complaint must contain "a short and plain
26 statement of the claim showing that the pleader is entitled to relief" Fed. R. Civ. P. 8(a)(2).
27 Detailed factual allegations are not required, but "[t]hreadbare recitals of the elements of a cause of
28 action, supported by mere conclusory statements, do not suffice." *Ashcroft v. Iqbal*, 556 U.S. 662,

1 678 (2009)(citing Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007)). Moreover, Plaintiff
2 must demonstrate that each defendant personally participated in the deprivation of Plaintiff’s rights.
3 Jones v. Williams, 297 F.3d 930, 934 (9th Cir.2002). While “plaintiffs [now] face a higher burden of
4 pleading facts . . .,” Al-Kidd v. Ashcroft, 580 F.3d 949, 977 (9th Cir. 2009), the pleadings of *pro se*
5 prisoners are still construed liberally and are afforded the benefit of any doubt. Hebbe v. Pliler, 627
6 F.3d 338, 342 (9th Cir. 2010).

7 “Where the factual elements of a cause of action are present, but are scattered throughout the
8 complaint and are not organized into a short, plain statement of the claim, dismissal for failure to
9 satisfy Rule 8 is proper.” See McHenry v. Renne, 84 F.3d 1172, 1178 (9th Cir. 1996) (explaining
10 complaint should set forth who is being sued, for what relief, and on what theory, with enough detail
11 to provide notice to defendants). The function of the complaint is not to list every single fact relating
12 to Plaintiff’s claims. Id.

13 Here, Plaintiff’s original complaint named various officers and a warden, and was found to be
14 a vague, confusing, rambling, and conclusory account of various accusations. Plaintiff’s amended
15 complaint suffers from the same issues. There are little to no factual allegations, dates, names, or
16 specific events discussed, and Plaintiff’s assertions are largely conclusory accusations aimed at the
17 entire department of corrections, prison officials, and law enforcement generally. Plaintiff’s complaint
18 lacks sufficient factual allegations to state any claim for relief.

19 Plaintiff was previously advised of these deficiencies, provided legal standards and granted
20 leave to amend to attempt to state this claim in the Court’s June 15, 2018 screening order, but he failed
21 to cure the deficiencies. Therefore, further leave to amend is not warranted. See Lopez v. Smith, 203
22 F.3d 1122, 1127 (9th Cir. 2000); see also Schmier v. U.S. Court of Appeals for the Ninth Circuit, 279
23 F.3d 817, 824 (9th Cir. 2002) (recognizing “[f]utility of amendment” as a proper basis for dismissal
24 without leave to amend).

25 **B. Linkage Requirement**

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

27 Every person who, under color of [state law]...subjects, or causes to be subjected, any
28 citizen of the United States...to the deprivation of any rights, privileges, or immunities
secured by the Constitution...shall be liable to the party injured in an action at law, suit

1 in equity, or other proper proceeding for redress.
2 42 U.S.C. § 1983. The statute plainly requires that there be an actual connection or link between the
3 actions of the defendants and the deprivation alleged to have been suffered by Plaintiff. See Monell v.
4 Dep't of Soc. Servs., 436 U.S. 658 (1978); Rizzo v. Goode, 423 U.S. 362 (1976). The Ninth Circuit
5 has held that “[a] person ‘subjects another to the deprivation of a constitutional right, within the
6 meaning of section 1983, if he does an affirmative act, participates in another’s affirmative acts or
7 omits to perform an act which he is legally required to do that causes the deprivation of which
8 complaint is made.’” Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978).

9 Plaintiff fails to link any specific defendant to any deprivation of his rights. He has identified a
10 few persons, but does not describe what they did or did not do to violate his rights. Moreover, he has
11 stated that all law enforcement and correctional officers are at fault, and that he cannot identify
12 specific defendants against whom he brings a claim. Therefore, he has failed to state any claim against
13 any defendant.

14 **C. Supervisory Liability**

15 Plaintiff states that Warden Muniz is a defendant. As Plaintiff has been previously advised, he
16 cannot bring suit against any official based on their supervisory role. Liability may not be imposed on
17 supervisory personnel for the actions or omissions of their subordinates under the theory of respondeat
18 superior. Iqbal, 556 U.S. at 676–77; Simmons v. Navajo County, Ariz., 609 F.3d 1011, 1020–21 (9th
19 Cir. 2010); Ewing v. City of Stockton, 588 F.3d 1218, 1235 (9th Cir.2009); Jones v. Williams, 297
20 F.3d 930, 934 (9th Cir. 2002).

21 Supervisors may be held liable only if they “participated in or directed the violations, or knew
22 of the violations and failed to act to prevent them.” Taylor v. List, 880 F.2d 1040, 1045 (9th Cir.
23 1989); accord Starr v. Baca, 652 F.3d 1202, 1205–06 (9th Cir. 2011); Corales v. Bennett, 567 F.3d
24 554, 570 (9th Cir. 2009). Supervisory liability may also exist without any personal participation if the
25 official implemented “a policy so deficient that the policy itself is a repudiation of the constitutional
26 rights and is the moving force of the constitutional violation.” Redman v. County of San Diego, 942
27 F.2d 1435, 1446 (9th Cir. 1991) (citations and quotations marks omitted), abrogated on other grounds
28 by Farmer v. Brennan, 511 U.S. 825 (1970).

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D. Housing

Plaintiff vaguely alleges that he is having issues regarding housing and housing transfers, and that prison officials have been unprofessional in dealing with his requests regarding housing. Plaintiff cannot state a claim based on dissatisfaction with his housing location or lack of choice in his facility. Prisoners have no right to remain in the prison of their choice or to prevent a housing transfer. Olim v. Wakinekona, 461 U.S. 238, 244-48 (1983).

E. Mail

Prisoners have “a First Amendment right to send and receive mail.” Witherow v. Paff, 52 F.3d 264, 265 (9th Cir. 1995) (per curiam). Nevertheless, correctional institutions and jails have a legitimate government interest in imposing certain restraints on inmate or detainee correspondence to maintain order and security. See Procunier v. Martinez, 416 U.S. 396, 413 (1974), overturned on other grounds by Thornburgh v. Abbott, 490 U.S. 401, 413–14 (1989). For example, inmates and detainees may have their mail screened to ensure that there is no contraband inside. Mangiaracina v. Penzone, 849 F.3d 1191, 1195 (9th Cir. 2017).

When incoming mail is legal mail, there are heightened concerns with allowing prison officials unfettered discretion in opening and reading an inmate’s mail. Prisoners have a Sixth Amendment right to confer privately with counsel and the practice of opening legal mail in the prisoner’s presence is specifically designed to protect that right. Id. at 1196–97 (Sixth Amendment requires a pretrial detainee be present when legal mail related to a criminal matter is inspected; even a single incident of improper reading of a pretrial detainee’s mail may give rise to a constitutional violation); Hayes v. Idaho Corr. Ctr., 849 F.3d 1204, 1210 (9th Cir. 2017) (prisoners have a First Amendment right to have their properly marked legal mail, including civil mail, opened in their presence). “A criminal defendant’s ability to communicate candidly and confidentially with his lawyer is essential to his defense.” Id. at 1198 (quoting Nordstrom v. Ryan, 762 F.3d 903, 910 (9th Cir. 2014)).

“Mail from the courts, as contrasted to mail from a prisoner’s lawyer, is not legal mail.” Keenan v. Hall, 83 F.3d 1083, 1094 (9th Cir. 1996). “All correspondence from a court to a litigant is a public document, which prison personnel could if they want inspect in the court’s files.” Id. at 1094 (citing to Martin v. Brewer, 830 F.2d 76, 78 (7th Cir. 1987)).

1 Despite being previously provided these standards, Plaintiff only generally asserts that he has
2 issues with his mail. He has not stated any claim based on the standards set forth here.

3 **F. Grievances/Appeals**

4 Plaintiff complains that he is having problems exhausting his administrative remedies, and that
5 his complaints have been lost. Prisoners do not have an independent constitutional due process
6 entitlement to a specific administrative grievance procedure. Ramirez v. Galaza, 334 F.3d 850, 860
7 (9th Cir. 2003); Mann v. Adams, 855 F.2d 639, 640 (9th Cir. 1988) (holding that there is no protected
8 liberty interest to a grievance procedure). Prison officials are not required under federal law to process
9 inmate grievances in any specific way. Allegations that prison officials denied or refused to process
10 grievances do not state a cognizable claim for a violation of his due process rights, because there is no
11 right to a particular grievance process or response. See, e.g., Towner v. Knowles, No. CIV S-08-2823
12 LKK EFB P, 2009 WL 4281999, at *2 (E.D. Cal. Nov. 20, 2009) (plaintiff failed to state claims that
13 would indicate a deprivation of his federal rights after defendant allegedly screened out his inmate
14 appeals without any basis); Williams v. Cate, No. 1:09-cv-00468-OWW-YNP PC, 2009 WL 3789597,
15 at *6 (E.D. Cal. Nov. 10, 2009) (“Plaintiff has no protected liberty interest in the vindication of his
16 administrative claims.”).

17 **G. Venue**

18 Plaintiff alleges that he is having his constitutional rights violated while being housed at
19 Salinas Valley State Prison. Salinas Valley State Prison is located in Soledad, California, which is in
20 the County of Monterey.

21 The federal venue statute requires that a civil action, other than one based on diversity
22 jurisdiction, be brought only in “(1) a judicial district where any defendant resides, if all defendants
23 reside in the same state, (2) a judicial district in which a substantial part of the events or omissions
24 giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is
25 situated, or (3) a judicial district in which any defendant may be found, if there is no district in which
26 the action may otherwise be brought.” 28 U.S.C. § 1391(b).

27 To the extent Plaintiff seeks to bring any claim against a prison official at Salinas Valley State
28 Prison, venue is not proper in this district because the defendant(s) and any witness(es) would reside

1 near Salinas Valley State Prison, and all events would have occurred in that prison. That area falls
2 within the jurisdiction of the United States District Court for the Northern District of California, and
3 therefore any action should be filed in that court, not this court. See 28 U.S.C. § 1391(b); 28 U.S.C. §
4 82.

5 **V.**

6 **CONCLUSION**

7 For the reasons discussed, Plaintiff has not stated a cognizable claim upon which relief may be
8 granted, and further leave to amend is not warranted. Accordingly, IT IS HEREBY
9 RECOMMENDED that this action be dismissed, with prejudice, for the failure to state a claim upon
10 which relief could be granted, and for failure to comply with Federal Rule of Civil Procedure 8.

11 These findings and recommendations will be submitted to the United States District Judge
12 assigned to the case, pursuant to the provision of 28 U.S.C. §636 (b)(1)(B). Within **thirty (30) days**
13 after being served with these Finding and Recommendations, Plaintiff may file written objections with
14 the Court. The document should be captioned “Objections to Findings and Recommendations.”
15 Plaintiff is advised that failure to file objections within the specified time may result in the waiver of
16 rights on appeal. Wilkerson v. Wheeler, 772 F.2d F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v.
17 Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

18
19 IT IS SO ORDERED.

20 Dated: November 6, 2018

21 
22 _____
23 UNITED STATES MAGISTRATE JUDGE