

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

WILLIAM J. JONES,  
Plaintiff,  
v.  
SHERMAN, et al.,  
Defendants.

Case No.: 1:18-cv-01697-SKO (PC)  
FINDINGS AND RECOMMENDATION  
TO DISMISS ACTION  
(Doc. 26)  
21-DAY DEADLINE  
Clerk of Court to Assign District Judge

Plaintiff William J. Jones, a state prisoner proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. section 1983. In his original complaint, (Doc. 1), as well as in his first and second amended complaints, (Docs. 15, 17), Plaintiff failed to state a cognizable claim for relief. On three occasions, courts provided Plaintiff with the pleading requirements and legal standards for his alleged claims and granted him leave to amend.<sup>1</sup> (Docs. 13, 16, 25.) Despite these opportunities, Plaintiff continues to set forth generalized conclusions instead of specific facts in his third amended complaint. (Doc. 26.) Thus, the Court finds that Plaintiff is unable to cure the deficiencies in his pleading, *see Akhtar v. Mesa*, 698 F.3d 1202, 1212-13 (9th Cir. 2012), and recommends that this action be **DISMISSED**.

---

<sup>1</sup> Plaintiff filed his original complaint in the Central District of California. (*See* Doc. 1.) After Plaintiff filed his second amended complaint, the court transferred his case to the Eastern District of California. (Doc. 19.)



1 *Bruns v. Nat'l Credit Union Admin.*, 122 F.3d 1251, 1257 (9th Cir. 1997) (internal quotation  
2 marks and citation omitted), and courts “are not required to indulge unwarranted inferences.” *Doe*  
3 *I v. Wal-Mart Stores, Inc.*, 572 F.3d 677, 681 (9th Cir. 2009) (internal quotation marks and  
4 citation omitted). The “sheer possibility that a defendant has acted unlawfully” is not sufficient to  
5 state a cognizable claim, and “facts that are merely consistent with a defendant’s liability” fall  
6 short. *Iqbal*, 556 U.S. at 678 (internal quotation marks and citation omitted).

### 7 **B. Linkage and Causation**

8 Section 1983 provides a cause of action for the violation of constitutional or other federal  
9 rights by persons acting under color of state law. *See* 42 U.S.C. § 1983. To state a claim under  
10 Section 1983, a plaintiff must show a causal connection or link between the actions of the  
11 defendants and the deprivation alleged to have been suffered by the plaintiff. *See Rizzo v. Goode*,  
12 423 U.S. 362, 373-75 (1976). The Ninth Circuit has held that “[a] person ‘subjects’ another to the  
13 deprivation of a constitutional right, within the meaning of section 1983, if he does an affirmative  
14 act, participates in another’s affirmative acts, or omits to perform an act which he is legally  
15 required to do that causes the deprivation of which complaint is made.” *Johnson v. Duffy*, 588  
16 F.2d 740, 743 (9th Cir. 1978) (citation omitted).

17 To state a claim for relief, Plaintiff must link each named defendant with some affirmative  
18 act or omission that caused a violation of Plaintiff’s federal rights. Plaintiff must clearly identify  
19 which defendant he believes is responsible for each violation of his rights and set forth the  
20 supporting factual basis for these claims. His complaint must place each defendant on notice of  
21 Plaintiff’s claims against him or her. *See Austin v. Terhune*, 367 F.3d 1167, 1171 (9th Cir. 2004).

## 22 **DISCUSSION**

23 In Claim I, Plaintiff alleges that Defendants Sherman, Ibarra, Cribbs, and Reveles  
24 “[d]eprived Plaintiff of Due Process, in retaliation for Plaintiff[’s] use of the inmate appeal  
25 system.” (Doc. 26 at 4-5.) Plaintiff also states that “Defendant Ibarra’s unreasonable capricious  
26 and arbitrary interference deprived Plaintiff of [p]roperty.” (*Id.* at 4.)

27 In Claim II, Plaintiff alleges that Defendants Sherman, Ibarra, Cribbs, Sasin, and Reveles  
28 deprived Plaintiff of his “[r]eligious [p]roperty in retaliation for Plaintiff ... utilizing the inmate

1 appeal process,” in violation of the Free Exercise Clause of the First Amendment. (*Id.* at 5-6.)  
2 Plaintiff also states that Defendant Sherman deprived him of a “[p]latinum [n]ecklace/32 diamond  
3 encrusted anchor medallion and other religio[us] items.”

4 In Claim III, Plaintiff alleges that Defendants Sherman, Ibarra, Cribbs, Sasin, and Reveles  
5 deprived Plaintiff of his “right to access the courts, in retaliation for Plaintiff ... using the  
6 [i]nmate [a]ppeal [p]rocess.” (*Id.* at 6.)

7 **A. Plaintiff Fails to Allege Sufficient Facts to State a Cognizable Claim**

8 The foregoing is the extent of Plaintiff’s allegations. Plaintiff provides no facts to support  
9 his conclusions that Defendants violated his rights under the First, Fifth, and/or Fourteenth  
10 amendments. With the exception of his reference to a “platinum necklace,” Plaintiff provides no  
11 factual matter, let alone sufficient matter, to state claims that are plausible on their face. *See*  
12 *Iqbal*, 556 U.S. at 678.

13 As noted above, “[t]hreadbare recitals of the elements of a cause of action, supported by  
14 mere conclusory statements, do not suffice” to state a cognizable claim. *Iqbal*, 556 U.S. at 678  
15 (citation omitted). Although the Court construes Plaintiff’s pleading liberally, such liberal  
16 construction does not apply to legal theories. *Neitze v. Williams*, 490 U.S. 319, 330 n.9 (1989);  
17 *see also Iqbal*, 556 U.S. at 678 (courts “are not bound to accept as true a legal conclusion couched  
18 as a factual allegation”) (internal quotation marks and citation omitted).

19 In prior screening orders, courts provided Plaintiff with the applicable pleading  
20 requirements as well as the legal standards for Plaintiff’s claims of denial of religious freedom,  
21 deprivation of property without due process, and denial of access to the courts. (*See Docs.* 13, 16,  
22 25.) Plaintiff’s allegations do not meet the given standards. Plaintiff does not show (1) how  
23 Defendants substantially burdened his practice of religion, *see Jones v. Williams*, 791 F.3d 1023,  
24 1031-32 (9th Cir. 2015), (2) that California does not provide an adequate remedy for the  
25 deprivation of Plaintiff’s property,<sup>2</sup> *see Barnett v. Centoni*, 31 F.3d 813, 816-17 (9th Cir. 1994),  
26 or (3) how Defendants’ actions frustrated his efforts to pursue a legal claim, *see Lewis v. Casey*,

27 \_\_\_\_\_  
28 <sup>2</sup> “[A] negligent or intentional deprivation of a prisoner’s property fails to state a claim under section 1983 if the state has an adequate post deprivation remedy.” *Barnett v. Centoni*, 31 F.3d 813, 816 (9th Cir. 1994) (citing *Hudson v. Palmer*, 468 U.S. 517, 533 (1984)).

