



1 On December 15, 2022, the Court issued its Second Screening Order. (Doc. 20.) The  
2 Court determined Plaintiff's first amended complaint violated Federal Rules of Civil Procedure  
3 Rule 20 (*Id.* at 8-12.) despite the Court's express admonition in its First Screening Order that  
4 Plaintiff should not bring multiple claims unless he demonstrated how they were related  
5 consistent with Rule 20. Plaintiff was granted leave to file a second amended complaint, or,  
6 alternatively, a notice of voluntary dismissal. (*Id.* at 12-13.) Plaintiff was afforded 21 days from  
7 the date of service of the order within which to file a second amended complaint curing the  
8 deficiencies identified in the screening order, or to file a notice of voluntary dismissal. (*Id.*)

9 Following an extension of time, Plaintiff filed his second amended complaint on January  
10 27, 2023. (Doc. 24.)

## 11 **II. SCREENING REQUIREMENT**

12 The Court is required to screen complaints brought by prisoners seeking relief against a  
13 governmental entity or an officer or employee of a governmental entity. 28 U.S.C. § 1915A(a).  
14 The Court must dismiss a complaint or portion thereof if the complaint is frivolous or malicious,  
15 fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant  
16 who is immune from such relief. 28 U.S.C. § 1915A(b). The Court should dismiss a complaint if  
17 it lacks a cognizable legal theory or fails to allege sufficient facts to support a cognizable legal  
18 theory. *See Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1990).

## 19 **III. PLEADING REQUIREMENTS**

### 20 **A. Federal Rule of Civil Procedure 8(a)**

21 "Rule 8(a)'s simplified pleading standard applies to all civil actions, with limited  
22 exceptions." *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 513 (2002). A complaint must contain  
23 "a short and plain statement of the claims showing that the pleader is entitled to relief." Fed. R.  
24 Civ. P. 8(a)(2). "Such a statement must simply give the defendant fair notice of what the  
25 plaintiff's claim is and the grounds upon which it rests." *Swierkiewicz*, 534 U.S. at 512 (internal  
26 quotation marks & citation omitted).

27 Detailed factual allegations are not required, but "[t]hreadbare recitals of the elements of a  
28 cause of action, supported by mere conclusory statements, do not suffice." *Ashcroft v. Iqbal*, 556

1 U.S. 662, 678 (2009) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). Plaintiff must  
2 set forth “sufficient factual matter, accepted as true, to ‘state a claim that is plausible on its face.’”  
3 *Id.* (quoting *Twombly*, 550 U.S. at 570). Factual allegations are accepted as true, but legal  
4 conclusions are not. *Id.* (citing *Twombly*, 550 U.S. at 555).

5 The Court construes pleadings of *pro se* prisoners liberally and affords them the benefit of  
6 any doubt. *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010) (citation omitted). However, “the  
7 liberal pleading standard . . . applies only to a plaintiff’s factual allegations,” not his legal  
8 theories. *Neitze v. Williams*, 490 U.S. 319, 330 n.9 (1989). Furthermore, “a liberal interpretation  
9 of a civil rights complaint may not supply essential elements of the claim that were not initially  
10 pled,” *Bruns v. Nat’l Credit Union Admin.*, 122 F.3d 1251, 1257 (9th Cir. 1997) (internal  
11 quotation marks & citation omitted), and courts “are not required to indulge unwarranted  
12 inferences.” *Doe I v. Wal-Mart Stores, Inc.*, 572 F.3d 677, 681 (9th Cir. 2009) (internal quotation  
13 marks & citation omitted). The “sheer possibility that a defendant has acted unlawfully” is not  
14 sufficient to state a cognizable claim, and “facts that are merely consistent with a defendant’s  
15 liability” fall short. *Iqbal*, 556 U.S. at 678 (internal quotation marks & citation omitted).

### 16 **B. Linkage and Causation**

17 Section 1983 provides a cause of action for the violation of constitutional or other federal  
18 rights by persons acting under color of state law. *See* 42 U.S.C. § 1983. To state a claim under  
19 section 1983, a plaintiff must show a causal connection or link between the actions of the  
20 defendants and the deprivation alleged to have been suffered by the plaintiff. *See Rizzo v. Goode*,  
21 423 U.S. 362, 373-75 (1976). The Ninth Circuit has held that “[a] person ‘subjects’ another to the  
22 deprivation of a constitutional right, within the meaning of section 1983, if he does an affirmative  
23 act, participates in another’s affirmative acts, or omits to perform an act which he is legal required  
24 to do that causes the deprivation of which complaint is made.” *Johnson v. Duffy*, 588 F.2d 740,  
25 743 (9th Cir. 1978) (citation omitted).

### 26 **C. Federal Rules of Civil Procedure 18 and 20**

27 Federal Rule of Civil Procedure 18(a) allows a party asserting a claim for relief to “join ...  
28 as many claims as it has against an opposing party.” However, a plaintiff may not join unrelated

1 claims against multiple defendants in a single action. *See* Fed. R. Civ. P. 20(a)(2); *see also Owens*  
2 *v. Hinsley*, 635 F.3d 950, 952 (7th Cir. 2011) (“unrelated claims against different defendants  
3 belong in separate lawsuits”). A plaintiff may bring claims against more than one defendant only  
4 if (1) the claims arise out of the same transaction, occurrence, or series of transactions or  
5 occurrences, and (2) there is a question of law or fact common to all defendants. Fed. R. Civ. P.  
6 20(a)(2); *see Coughlin v. Rogers*, 130 F.3d 1348, 1351 (9th Cir. 1997).

#### 7 **IV. DISCUSSION**

##### 8 **A. Plaintiff’s Second Amended Complaint**

9 Plaintiff’s second amended complaint names Correctional Officers Romero and  
10 Valladolid, Sergeant E. Moreno and Lieutenant A. Randolph, all employed at California State  
11 Prison, Corcoran, as Defendants. (Doc. 24 at 1-2.) Plaintiff presents two claims for relief. (*Id.* at  
12 3-5.) He seeks a declaratory judgment, compensatory damages of \$2,000,000, punitive damages  
13 of \$2,000,000, “injunctive order lost, destroyed property and seized funds returned to be  
14 determined,” and any other relief the Court deems just. (*Id.* at 6.)

##### 15 **B. Plaintiff’s Claims**

###### 16 **Claim One**

17 The Court construes Plaintiff’s first cause of action to assert a violation of Plaintiff’s  
18 Eighth Amendment rights. (*See* Doc. 24 at 3.)

19 Plaintiff contends that on June 10, 2020, Defendant Officer Romero “used forward  
20 momentum force and violence exiting cell 4A, 2L-44 presumably to close cell door after  
21 inspection and uncuff Plaintiff in full [waist] chains with visual/mobility impairment w/vest.”  
22 (Doc. 24 at 3.) Plaintiff asserts Romero pushed him from behind “to back left bunk, bent at waist  
23 pretending [Plaintiff] had turned around and struck him with my Brain Injury, vertigo, dysphagia  
24 and coordination problems from a permanent traumatic brain injury....” (*Id.*) Plaintiff contends  
25 Defendant Sergeant Moreno responded, using “unjustifiable” force “of program used eminent  
26 [sic] death of G.B.I. tactics to remove” Plaintiff’s “A.D.A. cane,” kneeling on him and breaking  
27 five of Plaintiff’s ribs. (*Id.*) Plaintiff contends Defendant Lieutenant Randolph also responded,  
28 “using closed fist strike punch” to the back of Plaintiff’s head. (*Id.*) Plaintiff further contends

1 Defendant Officer Valladolid used his “closed fist striking hard to ‘shut up’ created a cut to left  
2 temple bleeding down jumpsuit.” (*Id.*) Plaintiff states that “[a]t cell door stomped leg irons.” (*Id.*)  
3 Plaintiff also asserts Defendants Moreno and Randolph punched him during a wheelchair escort  
4 into the rotunda, and that Plaintiff was struck on his “broken body at shoulder by Randolph.” (*Id.*)  
5 He alleges his injuries include a “[l]asting injury to head, impaired breathing, knocked off at  
6 bunk,” the loss of prescription glasses, and severe mental and physical pain. (*Id.*)

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 Cir.  
9 2006). The unnecessary and wanton infliction of pain violates the Cruel and Unusual  
10 Punishments Clause of the Eighth Amendment. *Hudson v. McMillian*, 503 U.S. 1, 5 (1992)  
11 (citations omitted). Although prison conditions may be restrictive and harsh, prison officials must  
12 provide prisoners with food, clothing, shelter, sanitation, medical care, and personal safety.  
13 *Farmer v. Brennan*, 511 U.S. 825, 832-33 (1994) (quotations omitted)

14 “[T]he unnecessary and wanton infliction of pain on prisoners constitutes cruel and  
15 unusual punishment” in violation of the Eighth Amendment. *Whitley v. Albers*, 475 U.S. 312, 328  
16 (1986) (internal quotation marks & citation omitted). As courts have succinctly observed,  
17 “[p]ersons are sent to prison as punishment, not *for* punishment.” *Gordon v. Faber*, 800 F. Supp.  
18 797, 800 (N.D. Iowa) (quoting *Battle v. Anderson*, 564 F.2d 388, 395 (10th Cir. 1977)) (citation  
19 omitted). “Being violently assaulted in prison is simply not part of the penalty that criminal  
20 offenders pay for their offenses against society.” *Farmer*, 511 U.S. at 834 (1994) (internal  
21 quotation marks & citation omitted).

22 A correctional officer engages in excessive force in violation of the Cruel and Unusual  
23 Punishments Clause if he (1) uses excessive and unnecessary force under all the circumstances,  
24 and (2) “harms an inmate for the very purpose of causing harm,” and not “as part of a good-faith  
25 effort to maintain security.” *Hoard v. Hartman*, 904 F.3d 780, 788 (9th Cir. 2018). In other  
26 words, “whenever prison officials stand accused of using excessive physical force ..., the core  
27 judicial inquiry is ... whether force was applied in a good-faith effort to maintain or restore  
28 discipline, or maliciously and sadistically to cause harm.” *Hudson*, 503 U.S. at 6–7. In making

1 this determination, courts may consider “the need for application of force, the relationship  
2 between that need and the amount of force used, the threat reasonably perceived by the  
3 responsible officials, and any efforts made to temper the severity of a forceful response.” *Id.* at 7.  
4 Courts may also consider the extent of the injury suffered by the prisoner. *Id.* However, the  
5 absence of serious injury is not determinative. *Id.*

6         Liberally construing the second amended complaint, Plaintiff has plausibly alleged Eighth  
7 Amendment excessive force claims against all named Defendants, by asserting each of them  
8 personally used excessive physical force for the purposes of causing Plaintiff harm.

### 9                   **Claim Two**

10         In his second cause of action, Plaintiff contends his “private funds from outside sources,”  
11 including the Internal Revenue Service, were “never deposited” into his inmate trust account  
12 during the COVID-19 pandemic. (Doc. 24 at 4.) Plaintiff references an “Armstrong Motion filed  
13 June 3, 2020 for Retaliation to A.D.A.s with vision, mobility brain injury mental faculties  
14 impaired for people complaining” with Plaintiff. (*Id.*) Although not entirely clear, it appears  
15 Plaintiff is contending an illegal “’R’ suffix” was assigned to him by “C.D.C.R. S.A.T.F. on or  
16 about May of 2019.” (*Id.*) Plaintiff then contends “[d]ozens of staff misconduct falsified R.V.R.s  
17 like [his] on June 10, 2020 at Corcoran S.H.U.” were illegal, arbitrary and capricious. (*Id.*)  
18 Plaintiff then states “[i]nvalid sentencing as a witness for exercising [his] federal rights and help  
19 with disability.” (*Id.*) He contends his property was taken or left for “others to steal ... for 2 years  
20 and false R.V.R. after violently assaulting them.” (*Id.*) Plaintiff also seems to be asserting the  
21 seizure of his legal property at California State Prison, Los Angeles County “after trying to mail  
22 [indecipherable] numerous 602 appeals without any redress.” (*Id.*) Thereafter, Plaintiff refers to  
23 stolen bibles and “silver Christian medallions brand new” and broken televisions, stating he needs  
24 a “T.R.O. to return C.S.P. LAC TV and legal property.” (*Id.*) Plaintiff contends he is missing four  
25 televisions and “\$600 IRS E.I.P. II sent but not deposited.” (*Id.*)

26         Plaintiff further asserts “[p]unitive segregation” in retaliation “without access to appointed  
27 [lawyer],” citing to “Case No. CMS-1757, CMS-4954 or any phone for over 3-months even to  
28 loved ones during Holidays ending in 2022.” (Doc. 24 at 5.) Plaintiff states in 2023 he was

1 illegally assessed “24 mo S.H.U. over incidents on [Salinas Valley State Prison] heat down inside  
2 Lexis Nexis Law Library and cock fights at D-Yard S.V.S.P.” (*Id.*) Plaintiff repeats his assertion  
3 that inmates were allowed “to steal all personal property under eminent 602 for illegal ‘R’  
4 determinats on 128 Chron labeling a conviction without arrest or plea agreement.” (*Id.*, spelling in  
5 original.) He concludes by stating, “[S]ufficiently, knowingly inflammatory and defamatory legally  
6 document slander state sponsored retaliation from S.A.T.F. prior to violent S.B.I. on 6-10-20 at  
7 Cor. S.H.U. by aforementioned defendants.” (*Id.*, spelling & abbreviations in original.)

8 As Plaintiff has been repeatedly advised (*see* Docs. 6 at 3, 12-13 & Doc. 20 at 4, 8-10), he  
9 cannot join unrelated claims in a single lawsuit. Because Plaintiff’s second claim seeks to join  
10 unrelated claims—including claims involving other institutions and presumably other  
11 individuals—with a separate excessive force claim, the Court will recommend Plaintiff’s second  
12 claim for relief be dismissed as it violates Rule 20 of the Federal Rules of Civil Procedure.  
13 Additionally, the Court notes Plaintiff has failed to state any other cognizable claim against any  
14 individual because Plaintiff does not attribute or link any action whatsoever to any named  
15 Defendant or any individual at all. *Rizzo*, 423 U.S. at 373-75. Simply put, Plaintiff has failed to  
16 state a claim upon which relief can be granted. The Court will recommend Plaintiff’s second  
17 claim be dismissed without leave to amend.

### 18 **Amendment Would Be Futile**

19 If the Court finds that a complaint should be dismissed for failure to state a claim, the  
20 court has discretion to dismiss with or without leave to amend. *Lopez v. Smith*, 203 F.3d 1122,  
21 1126-30 (9th Cir. 2000) (en banc). Leave to amend should be granted if it appears possible that  
22 the defects in the complaint could be corrected, especially if a plaintiff is pro se. *Id.* at 1130–31;  
23 *see also Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995) (“A pro se litigant must be  
24 given leave to amend his or her complaint, and some notice of its deficiencies, unless it is  
25 absolutely clear that the deficiencies of the complaint could not be cured by amendment”).  
26 However, if, after careful consideration, it is clear that a complaint cannot be cured by  
27 amendment, the court may dismiss without leave to amend. *Cato*, 70 F.3d at 1005-06.

28 Here, the Court has given Plaintiff multiple opportunities to cure the deficiencies

1 identified in his prior complaints. Nonetheless, Plaintiff continues to present unrelated claims in a  
2 single action and fails to link the actions of any named Defendant to his second cause of action. It  
3 is clear that granting Plaintiff further leave to amend would not cure the deficiencies identified  
4 herein.

5 **V. CONCLUSION AND RECOMMENDATIONS**

6 The Clerk of the Court is DIRECTED to assign a district judge to this action. Further, for  
7 the reasons set forth above, the Court **RECOMMENDS** that:

- 8 1. This action PROCEED on Plaintiff's Eighth Amendment excessive force claims  
9 (claim one) against Defendants Moreno, Randolph, Romero and Valladolin as asserted  
10 in Plaintiff's second amended complaint; and  
11 2. The remaining claims (claim two) in the second amended complaint be DISMISSED.

12 These Findings and Recommendations will be submitted to the United States District  
13 Judge assigned to this case, pursuant to 28 U.S.C. § 636(b)(1). Within 14 days of the date of  
14 service of these Findings and Recommendations, a party may file written objections with the  
15 Court. The document should be captioned, "Objections to Magistrate Judge's Findings and  
16 Recommendations." Failure to file objections within the specified time may result in waiver of  
17 rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing *Baxter v.*  
18 *Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

19 IT IS SO ORDERED.

20 Dated: May 16, 2023

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23 UNITED STATES MAGISTRATE JUDGE  
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