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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DEAN MARTIN SEALEY,
Plaintiff,
v.
T. CISNEROS, et al.,
Defendants.

Case No. 1:23-cv-00253-ADA-EPG (PC)

FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT THIS ACTION
PROCEED ON PLAINTIFF’S EIGHTH
AMENDMENT CONDITIONS OF
CONFINEMENT CLAIMS AGAINST
DEFENDANTS STEVE, FAGUNDES, AND
DUSTIN, AND THAT ALL OTHER
CLAIMS AND DEFENDANTS BE
DISMISSED

(ECF No. 1)

OBJECTIONS, IF ANY, DUE WITHIN
TWENTY-ONE DAYS

Dean Sealey (“Plaintiff”) is a state prisoner proceeding *pro se* in this civil rights action filed pursuant to 42 U.S.C. § 1983, which includes a state law claim. Plaintiff filed the case commencing this action on February 21, 2023. (ECF No. 1). Plaintiff alleges that he was severely injured while trying to clean a machine that he was directed to clean, even though he had no training, experience, or supervision. The complaint is now before this Court for screening.

The Court has reviewed the complaint. For the reasons described below, the Court will

1 recommend that this action proceed on Plaintiff’s Eighth Amendment conditions of
2 confinement claims against defendants Steve, Fagundes, and Dustin. The Court will also
3 recommend that all other claims and defendants be dismissed.

4 Plaintiff has twenty-one days from the date of service of these findings and
5 recommendations to file his objections.

6 **I. SCREENING REQUIREMENT**

7 The Court is required to screen complaints brought by prisoners seeking relief against a
8 governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a).
9 The Court must dismiss a complaint or portion thereof if the prisoner has raised claims that are
10 legally “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or
11 that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C.
12 § 1915A(b)(1), (2).

13 A complaint is required to contain “a short and plain statement of the claim showing
14 that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). Detailed factual allegations are
15 not required, but “[t]hreadbare recitals of the elements of a cause of action, supported by mere
16 conclusory statements, do not suffice.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (citing Bell
17 Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007)). A plaintiff must set forth “sufficient
18 factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” Id.
19 (quoting Twombly, 550 U.S. at 570). The mere possibility of misconduct falls short of meeting
20 this plausibility standard. Id. at 679. While a plaintiff’s allegations are taken as true, courts
21 “are not required to indulge unwarranted inferences.” Doe I v. Wal-Mart Stores, Inc., 572 F.3d
22 677, 681 (9th Cir. 2009) (citation and internal quotation marks omitted). Additionally, a
23 plaintiff’s legal conclusions are not accepted as true. Iqbal, 556 U.S. at 678.

24 Pleadings of *pro se* plaintiffs “must be held to less stringent standards than formal
25 pleadings drafted by lawyers.” Hebbe v. Pliler, 627 F.3d 338, 342 (9th Cir. 2010) (holding that
26 *pro se* complaints should continue to be liberally construed after Iqbal).

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1 **II. SUMMARY OF PLAINTIFF’S COMPLAINT**

2 Plaintiff alleges as follows in his complaint:

3 The incidents occurred at California Substance Abuse Treatment Facility and State
4 Prison.

5 On April 21, 2022, Plaintiff was assigned to the California Prison Industry Authority.
6 His job title was Package Handler.

7 On August 30, 2022, Plaintiff’s supervisor, defendant Dustin, ordered Plaintiff to work
8 in the peanut butter and jelly section. On this day, Plaintiff’s supervisors, defendants Steve,
9 Fagundes, and Dustin, had decided to experiment with processing hummus through the jelly
10 processing system. This clogged up the entire system. It was at this time Plaintiff and another
11 inmate were given a direct order by Plaintiff’s supervisors to clean inside the pipes and pumps.
12 Plaintiff had no formal training on the pump and pipe system, and Plaintiff’s supervisors knew
13 this. In the process of cleaning inside the pipes and pumps, due to Plaintiff’s inexperience, lack
14 of training, and lack of supervision, Plaintiff was severely injured while attempting to remove
15 the gasket from the pump. Plaintiff’s left index finger came into contact with a propeller
16 spinning at a rate of one thousand miles per hour. Plaintiff’s left index finger was shredded,
17 and had to be surgically amputated.

18 Defendants Steve, Fagundes, and Dustin subjected Plaintiff to a prison condition that
19 violated Plaintiff’s constitutional rights.

20 All of the supervisors were experienced industrialist employees that knew the ins and
21 outs of their factory, as well as the chance and possibility of injury to an inexperienced inmate
22 with no form of training that is required in any commerce setting by the California Division of
23 Occupational Safety and Health, which was established by the California Occupational Safety
24 and Health Act of 1973.

25 Defendants failed to train and/or supervise Plaintiff, and that failure to train or supervise
26 reflected a deliberate or conscious choice by Defendants.

27 Instead of having Plaintiff clean the clogged machine, Defendants could have called a
28 professional maintenance worker.

1 **III. ANALYSIS OF PLAINTIFF’S COMPLAINT**

2 A. Section 1983

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

4 Every person who, under color of any statute, ordinance, regulation, custom, or
5 usage, of any State or Territory or the District of Columbia, subjects, or causes
6 to be subjected, any citizen of the United States or other person within the
7 jurisdiction thereof to the deprivation of any rights, privileges, or immunities
8 secured by the Constitution and laws, shall be liable to the party injured in an
9 action at law, suit in equity, or other proper proceeding for redress....

10 42 U.S.C. § 1983. “[Section] 1983 ‘is not itself a source of substantive rights,’ but merely
11 provides ‘a method for vindicating federal rights elsewhere conferred.’” Graham v. Connor,
12 490 U.S. 386, 393-94 (1989) (quoting Baker v. McCollan, 443 U.S. 137, 144 n.3 (1979)); see
13 also Chapman v. Houston Welfare Rights Org., 441 U.S. 600, 618 (1979); Hall v. City of Los
14 Angeles, 697 F.3d 1059, 1068 (9th Cir. 2012); Crowley v. Nevada, 678 F.3d 730, 734 (9th Cir.
15 2012); Anderson v. Warner, 451 F.3d 1063, 1067 (9th Cir. 2006).

16 To state a claim under section 1983, a plaintiff must allege that (1) the defendant acted
17 under color of state law, and (2) the defendant deprived him of rights secured by the
18 Constitution or federal law. Long v. County of Los Angeles, 442 F.3d 1178, 1185 (9th Cir.
19 2006); see also Marsh v. County of San Diego, 680 F.3d 1148, 1158 (9th Cir. 2012) (discussing
20 “under color of state law”). A person deprives another of a constitutional right, “within the
21 meaning of § 1983, ‘if he does an affirmative act, participates in another’s affirmative act, or
22 omits to perform an act which he is legally required to do that causes the deprivation of which
23 complaint is made.’” Preschooler II v. Clark County Sch. Bd. of Trs., 479 F.3d 1175, 1183
24 (9th Cir. 2007) (quoting Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978)). “The requisite
25 causal connection may be established when an official sets in motion a ‘series of acts by others
26 which the actor knows or reasonably should know would cause others to inflict’ constitutional
27 harms.” Preschooler II, 479 F.3d at 1183 (quoting Johnson, 588 F.2d at 743). This standard of
28 causation “closely resembles the standard ‘foreseeability’ formulation of proximate cause.”
Arnold v. Int’l Bus. Mach. Corp., 637 F.2d 1350, 1355 (9th Cir. 1981); see also Harper v. City
of Los Angeles, 533 F.3d 1010, 1026 (9th Cir. 2008).

1 A plaintiff must demonstrate that each named defendant personally participated in the
2 deprivation of his rights. Iqbal, 556 U.S. at 676-77. In other words, there must be an actual
3 connection or link between the actions of the defendants and the deprivation alleged to have
4 been suffered by the plaintiff. See Monell v. Dep't of Soc. Servs. of City of N.Y., 436 U.S.
5 658, 691, 695 (1978).

6 Supervisory personnel are not liable under section 1983 for the actions of their
7 employees under a theory of *respondeat superior* and, therefore, when a named defendant
8 holds a supervisory position, the causal link between the supervisory defendant and the claimed
9 constitutional violation must be specifically alleged. Iqbal, 556 U.S. at 676-77; Fayle v.
10 Stapley, 607 F.2d 858, 862 (9th Cir. 1979); Mosher v. Saalfeld, 589 F.2d 438, 441 (9th Cir.
11 1978). To state a claim for relief under section 1983 based on a theory of supervisory liability,
12 a plaintiff must allege some facts that would support a claim that the supervisory defendants
13 either: were personally involved in the alleged deprivation of constitutional rights, Hansen v.
14 Black, 885 F.2d 642, 646 (9th Cir. 1989); “knew of the violations and failed to act to prevent
15 them,” Taylor v. List, 880 F.2d 1040, 1045 (9th Cir. 1989); or promulgated or “implement[ed]
16 a policy so deficient that the policy itself is a repudiation of constitutional rights and is the
17 moving force of the constitutional violation,” Hansen, 885 F.2d at 646 (citations and internal
18 quotation marks omitted).

19 For instance, a supervisor may be liable for his or her “own culpable action or inaction
20 in the training, supervision, or control of his [or her] subordinates,” “his [or her] acquiescence
21 in the constitutional deprivations of which the complaint is made,” or “conduct that showed a
22 reckless or callous indifference to the rights of others.” Larez v. City of Los Angeles, 946 F.2d
23 630, 646 (9th Cir. 1991) (citations, internal quotation marks, and brackets omitted).

24 B. Conditions of Confinement

25 “It is undisputed that the treatment a prisoner receives in prison and the conditions
26 under which [the prisoner] is confined are subject to scrutiny under the Eighth Amendment.”
27 Helling v. McKinney, 509 U.S. 25, 31 (1993); see also Farmer v. Brennan, 511 U.S. 825, 832
28 (1994). Conditions of confinement may, consistent with the Constitution, be restrictive and

1 harsh. See Rhodes v. Chapman, 452 U.S. 337, 347 (1981); Morgan v. Morgensen, 465 F.3d
2 1041, 1045 (9th Cir. 2006); Osolinski v. Kane, 92 F.3d 934, 937 (9th Cir. 1996); Jordan v.
3 Gardner, 986 F.2d 1521, 1531 (9th Cir. 1993) (*en banc*). Prison officials must, however,
4 provide prisoners with “food, clothing, shelter, sanitation, medical care, and personal safety.”
5 Toussaint v. McCarthy, 801 F.2d 1080, 1107 (9th Cir. 1986), abrogated in part on other
6 grounds by Sandin v. Connor, 515 U.S. 472 (1995); see also Johnson v. Lewis, 217 F.3d 726,
7 731 (9th Cir. 2000); Hoptowit v. Ray, 682 F.2d 1237, 1246 (9th Cir. 1982); Wright v. Rushen,
8 642 F.2d 1129, 1132-33 (9th Cir. 1981).

9 Two requirements must be met to show an Eighth Amendment violation. Farmer, 511
10 U.S. at 834. “First, the deprivation alleged must be, objectively, sufficiently serious.” Id.
11 (citation and internal quotation marks omitted). Second, “a prison official must have a
12 sufficiently culpable state of mind,” which for conditions of confinement claims “is one of
13 deliberate indifference.” Id. (citations and internal quotation marks omitted). Prison officials
14 act with deliberate indifference when they know of and disregard an excessive risk to inmate
15 health or safety. Id. at 837. The circumstances, nature, and duration of the deprivations are
16 critical in determining whether the conditions complained of are grave enough to form the basis
17 of a viable Eighth Amendment claim. Johnson v. Lewis, 217 F.3d 726, 731 (9th Cir. 2006).
18 Mere negligence on the part of a prison official is not sufficient to establish liability, but rather,
19 the official’s conduct must have been wanton. Farmer, 511 U.S. at 835; Frost v. Agnos, 152
20 F.3d 1124, 1128 (9th Cir. 1998).

21 Plaintiff alleges that his supervisors, defendants Steve, Fagundes, and Dustin, decided
22 to experiment with processing hummus through the jelly processing system, and clogged the
23 system. They then ordered Plaintiff, whose job title was Package Handler and who they knew
24 had no training on the pump and pipe system, to clean inside the pumps and pipes. Inside the
25 machine there was a propeller spinning at a rate of one thousand miles per hour, and Plaintiff’s
26 finger came into contact with this propeller. This shredded Plaintiff’s finger, which had to be
27 surgically amputated.

28 Liberally construing the allegations in Plaintiff’s complaint, the Court finds that

1 Plaintiff sufficiently alleges that defendants Steve, Fagundes, and Dustin knew of and
2 disregarded a serious risk to Plaintiff's safety, leading to a serious injury. Accordingly, the
3 Court finds that Plaintiff's Eighth Amendment conditions of confinement claims against
4 defendants Steve, Fagundes, and Dustin should proceed past screening.¹

5 C. State Law Claims

6 Plaintiff brings a claim under the California Constitution. However, Plaintiff has not
7 pled compliance with California's Government Claims Act. California's Government Claims
8 Act² requires that a claim against the State³ or its employees "relating to a cause of action for
9 death or for injury to person or to personal property" be presented to the Department of General
10 Services' Government Claims Program no more than six months after the cause of action
11 accrues. Cal. Gov't Code §§ 905.2, 910, 911.2, 945.4, 950-950.2. Presentation of a written
12 claim, and action on or rejection of the claim, are conditions precedent to suit. State v.
13 Superior Court of Kings County (Bodde), 32 Cal.4th 1234, 1245 (Cal. 2004); Mangold v.
14 California Pub. Utils. Comm'n, 67 F.3d 1470, 1477 (9th Cir. 1995). To state a tort claim
15 against a public entity or employee, a plaintiff must allege compliance with the Government
16 Claims Act. Bodde, 32 Cal.4th at 1245; Mangold, 67 F.3d at 1477; Karim-Panahi v. Los
17 Angeles Police Dept., 839 F.2d 621, 627 (9th Cir. 1988).

18 Plaintiff fails to state any state law claims because he has not alleged facts
19 demonstrating or excusing compliance with California's Government Claims Act. Moreover,
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21
22 ¹ It appears that Plaintiff is only attempting to bring a conditions of confinement claim against these three
23 defendants. No other defendants are mentioned in the fact section, and Plaintiff does not request relief against any
24 other defendant. Additionally, in a section titled "Defendants," only Steve, Fagundes, and Dustin are listed as
25 defendants, as well as "all supervisor[s]" who subjected him to a substantial risk of serious harm. (ECF No. 1, p.
26 1). Additionally, Plaintiff lists T. Cisneros, the Warden, John Doe, the CEO of the Prison Industry Authority, and
27 Bill Davidson, the General Manager of the Prison Industry Authority, in the caption(s) of his complaint. (ECF No.
28 1, pgs. 1 & 6). To the extent Plaintiff is attempting to bring a claim against these defendants, the Court finds that
Plaintiff fails to state a claim because there are no factual allegations regarding the conduct of any of these
defendants. Thus, Plaintiff fails to connect any of these defendants to the alleged constitutional violation.

² This Act was formerly known as the California Tort Claims Act. City of Stockton v. Superior Court, 42
Cal. 4th 730, 741-42 (Cal. 2007) (adopting the practice of using Government Claims Act rather than California
Tort Claims Act).

³ "'State' means the State and any office, officer, department, division, bureau, board, commission or
agency of the State claims against which are paid by warrants drawn by the Controller." Cal. Gov't Code § 900.6.

1 Plaintiff brings a claim under Article 1 § 17 of the California Constitution,⁴ but this section
2 does not provide a private right of action for money damages. Giraldo v. Dep’t of Corr. &
3 Rehab., 168 Cal. App. 4th 231, 256 (2008) (“[W]e conclude there is no basis to recognize a
4 claim for damages under article I, section 17 of the California Constitution.”); Asberry v.
5 Relevante, 2018 WL 4191863, at *7 (E.D. Cal. Aug. 31, 2018), report and recommendation
6 adopted, 2018 WL 4616383 (E.D. Cal. Sept. 24, 2018) (“The court should follow the *Giraldo*
7 decision and hold that Article I, Section 17 provides no private right of action for damages.”);
8 O’Brien v. Reed, 2022 WL 18027819, at *8 (E.D. Cal. Dec. 30, 2022), report and
9 recommendation adopted, 2023 WL 2696662 (E.D. Cal. Mar. 29, 2023) (“Plaintiff is precluded
10 from bringing a claim under section 17 of the California Constitution for money damages.”).

11 **IV. CONCLUSION AND RECOMMENDATIONS**

12 The Court has screened the complaint and finds that this action should proceed on the
13 following claims: Plaintiff’s Eighth Amendment conditions of confinement claims against
14 defendants Steve, Fagundes, and Dustin. The Court also finds that all other claims and
15 defendants should be dismissed.

16 The Court will not recommend that leave to amend be granted. As discussed above,
17 Plaintiff only appears to be bringing Eighth Amendment claims against defendants Steve,
18 Fagundes, and Dustin, and the Court has found that these claims should proceed past screening.
19 As to Plaintiff’s claim under Article 1 § 17 of the California Constitution, as discussed above,
20 Plaintiff does not plead compliance with the Government Claims Act, and even if he had,
21 Article 1 § 17 does not create a claim for damages. Accordingly, leave to amend as to this
22 claim would be futile.⁵

23 Accordingly, based on the foregoing, the Court HEREBY RECOMMENDS that:

- 24 1. This case proceed on Plaintiff’s Eighth Amendment conditions of confinement
25 claims against defendants Steve, Fagundes, and Dustin; and

26
27 ⁴ This section states: “Cruel or unusual punishment may not be inflicted or excessive fines imposed.”
Cal. Const. art. I, § 17

28 ⁵ If Plaintiff believes that he can cure the deficiencies identified by the Court, he should explain how in
his objections to these findings and recommendations.

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2. All other claims and defendants be dismissed.

These findings and recommendations will be submitted to the United States district judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within twenty-one (21) days after being served with these findings and recommendations, Plaintiff may file written objections with the Court. The document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file objections within the specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: May 23, 2023

/s/ Eric P. Groj
UNITED STATES MAGISTRATE JUDGE