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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 JERRY W. BAKER,

11 Plaintiff,

NO. CIV 08-1034BHS

12 v.

13 SOLANO COUNTY JAIL, et al.,

ORDER

14 Defendants.
15

16 This matter comes before the Court on Plaintiff's filing of an amended complaint.
17 Dkt. 8.

18 On June 4, 2008, Magistrate Judge Kimberley J. Mueller issued an order granting
19 Plaintiff's application for leave to proceed *in forma pauperis*, but informed Plaintiff that
20 he had failed to state a claim upon which relief may be granted. Dkt. 5. Judge Mueller
21 also granted Plaintiff leave to file an amended complaint. *Id.*

22 On June 20, 2008, Plaintiff filed an amended complaint. Dkt. 8. However, the
23 amended complaint is nearly identical to Plaintiff's original complaint. *Compare* Dkt. 1.
24 The amended complaint does not specify any "actual injury" resulting from the denial or
25 delay in services. *See* Dkt. 5 (citing *Lewis v. Casey*, 518 U.S. 343, 351 (1996)). Plaintiff
26 does not allege that his state habeas petition was denied because of any delay or because
27 he was unable to attach necessary copies.
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1 On January 22, 2009, this action was reassigned to the undersigned. Dkt. 11. The
2 Court has reviewed the record de novo and agrees with Judge Mueller's opinion that
3 Plaintiff's complaint fails to state a claim upon which relief may be granted. The amended
4 complaint is deficient for the same reasons stated in Judge Mueller's order. *See* Dkt. 5.

5 The Court will again grant leave to allow Plaintiff to file another amended
6 complaint. Plaintiff is instructed to refer to Judge Mueller's order which granted him
7 leave to amend the original complaint. *See* Dkt. 5. Specifically, if Plaintiff chooses to
8 amend the complaint, he must demonstrate how the conditions complained of have
9 resulted in the deprivation of his constitutional rights. *See Ellis v. Cassidy*, 625 F.2d 227
10 (9th Cir. 1980). Plaintiff must show "actual injury" from the denial or delay of services.
11 In addition, the complaint must allege in specific terms how each named defendant is
12 involved.

13 In accordance with the above, IT IS HEREBY ORDERED that:

- 14 1. Plaintiff's amended complaint is dismissed.
- 15 2. No later than March 2, 2009, Plaintiff shall file a second amended
16 complaint. Plaintiff's amended complaint shall comply with the requirements of the Civil
17 Rights Act, the Federal Rules of Civil Procedure, and the Local Rules of Practice; the
18 amended complaint must bear the docket number assigned to this case and must be
19 labeled "Second Amended Complaint." Failure to file an amended complaint in
20 accordance with this order will result in dismissal of Plaintiff's action.
- 21 3. The Clerk of the Court is directed to send Plaintiff a copy of the form for a
22 civil rights action by a prisoner.

23 DATED this 5th day of February, 2009.

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25 _____
26 BENJAMIN H. SETTLE
27 United States District Judge
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