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

RICHARD WALLACE,

Plaintiff,  
vs.

No. CIV S-09-0502 JAM EFB P

JERRY BROWN et al.,

Defendants.

ORDER

Richard Wallace, an inmate confined at Solano County Jail, filed this pro se civil rights action under 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1). Plaintiff has filed a first amended complaint. *See* Dckt. No. 14. For the reasons set forth below, the court finds that plaintiff’s first amended complaint fails to state any claims for which relief can be granted under § 1983, and dismisses it with leave to amend within 30 days.

Pursuant to 28 U.S.C. § 1915A, the court shall review “a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity.” 28 U.S.C. § 1915A(a). “On review, the court shall identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint (1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or (2) seeks monetary relief

1 from a defendant who is immune from such relief.” *Id.* § 1915A(b).

2 A district court must construe a pro se pleading “liberally” to determine if it states a  
3 claim and, prior to dismissal, tell a plaintiff of deficiencies in his complaint and give plaintiff an  
4 opportunity to cure them. *See Lopez v. Smith*, 203 F.3d 1122, 1130-31 (9th Cir. 2000). While  
5 detailed factual allegations are not required, “[t]hreadbare recitals of the elements of a cause of  
6 action, supported by mere conclusory statements, do not suffice.” *Ashcroft v. Iqbal*, 129 S.Ct.  
7 1937, 1949 (2009) (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). Plaintiff  
8 must set forth “sufficient factual matter, accepted as true, to ‘state a claim to relief that is  
9 plausible on its face.’” *Id.* (quoting *Twombly*, 550 U.S. at 570).

10 A claim has facial plausibility when the plaintiff pleads factual content that allows  
11 the court to draw the reasonable inference that the defendant is liable for the  
12 misconduct alleged. The plausibility standard is not akin to a “probability  
13 requirement,” but it asks for more than a sheer possibility that a defendant has  
acted unlawfully. Where a complaint pleads facts that are merely consistent with a  
defendant’s liability, it stops short of the line between possibility and plausibility  
of entitlement to relief.

14 *Id.* (citations and quotation marks omitted). Although legal conclusions can provide the  
15 framework of a complaint, they must be supported by factual allegations, and are not entitled to  
16 the assumption of truth. *Id.* at 1950.

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

18 Every person who, under color of [state law] . . . subjects, or causes to be  
19 subjected, any citizen of the United States . . . to the deprivation of any rights,  
20 privileges, or immunities secured by the Constitution . . . shall be liable to the  
party injured in an action at law, suit in equity, or other proper proceeding for  
redress . . . .

21 42 U.S.C. § 1983. An individual defendant is not liable on a civil rights claim unless the facts  
22 establish the defendant’s personal involvement in the constitutional deprivation or a causal  
23 connection between the defendant’s wrongful conduct and the alleged constitutional deprivation.  
24 *See Hansen v. Black*, 885 F.2d 642, 646 (9th Cir. 1989); *Johnson v. Duffy*, 588 F.2d 740, 743-44  
25 (9th Cir. 1978).

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1           The court has reviewed plaintiff's first amended complaint pursuant to 28 U.S.C.  
2 § 1915A and finds it does not state a cognizable claim. The complaint states that the attorney  
3 general has violated plaintiff's constitutional rights, including his fourth amendment and equal  
4 protection rights, "dating back to my criminal arrest history." The court previously dismissed  
5 plaintiff's claims challenging the validity of his conviction or sentence without leave to amend.  
6 The above sentence appears to be a vain attempt to revive those claims.

7           As to the rest of plaintiff's allegations, he has failed to allege enough facts to make out  
8 claims under section 1983. Plaintiff asserts, *inter alia*, that his internal appeals were denied as a  
9 result of discrimination and deliberate indifference; that he was denied adequate health care; that  
10 his parole agent falsified documents to cause him pain and suffering; and that all of the  
11 defendants "denied him a certificate of rehabilitation or a pardon." But plaintiff has not  
12 coherently or specifically explained how each defendant violated his rights. Plaintiff is advised  
13 that although legal conclusions can provide the framework of a complaint, they must be  
14 supported by factual allegations.

15           The court grants plaintiff an additional chance to attempt to state a claim by amending his  
16 complaint. In his second amended complaint, plaintiff must explain to in factual detail what  
17 each of the defendants did to him. Any amended complaint must adhere to the following  
18 requirements:

19           It must be complete in itself without reference to any prior pleading. E.D. Cal. Local  
20 Rule 220; *see Loux v. Rhay*, 375 F.2d 55, 57 (9th Cir. 1967). Once plaintiff files an amended  
21 complaint, the original pleading is superseded.

22           It must show that the federal court has jurisdiction and that plaintiff's action is brought in  
23 the right place, that plaintiff is entitled to relief if plaintiff's allegations are true, and must  
24 contain a request for particular relief. Plaintiff must identify as a defendant only persons who  
25 personally participated in a substantial way in depriving plaintiff of a federal constitutional right.  
26 *Johnson*, 588 F.2d at 743 (a person subjects another to the deprivation of a constitutional right if

1 he does an act, participates in another's act or omits to perform an act he is legally required to do  
2 that causes the alleged deprivation).

3           It must contain a caption including the name of the court and the names of all parties.  
4 Fed. R. Civ. P. 10(a).

5           Plaintiff may join multiple claims if they are all against a single defendant. Fed. R. Civ.  
6 P. 18(a). If plaintiff has more than one claim based upon separate transactions or occurrences,  
7 the claims must be set forth in separate paragraphs. Fed. R. Civ. P. 10(b). Plaintiff may join  
8 multiple claims if they are all against a single defendant. Fed. R. Civ. P. 18(a). Unrelated claims  
9 against different defendants must be pursued in multiple lawsuits. "The controlling principle  
10 appears in Fed. R. Civ. P. 18(a): 'A party asserting a claim . . . may join, [] as independent or as  
11 alternate claims, as many claims . . . as the party has against an opposing party.' Thus multiple  
12 claims against a single party are fine, but Claim A against Defendant 1 should not be joined with  
13 unrelated Claim B against Defendant 2. Unrelated claims against different defendants belong in  
14 different suits, not only to prevent the sort of morass [a multiple claim, multiple defendant] suit  
15 produce[s], but also to ensure that prisoners pay the required filing fees-for the Prison Litigation  
16 Reform Act limits to 3 the number of frivolous suits or appeals that any prisoner may file  
17 without prepayment of the required fees. 28 U.S.C. § 1915(g)." *George v. Smith*, 507 F.3d 605,  
18 607 (7th Cir. 2007); see also Fed. R. Civ. P. 20(a)(2) (joinder of defendants not permitted unless  
19 both commonality and same transaction requirements are satisfied).

20           The allegations must be short and plain, simple and direct and describe the relief plaintiff  
21 seeks. Fed. R. Civ. P. 8(a); *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 514 (2002); *Galbraith v.*  
22 *County of Santa Clara*, 307 F.3d 1119, 1125 (9th Cir. 2002). A long, rambling pleading,  
23 including many defendants with unexplained, tenuous or implausible connection to the alleged  
24 constitutional injury or joining a series of unrelated claims against many defendants very likely  
25 will result in delaying the review required by 28 U.S.C. § 1915 and an order dismissing  
26 plaintiff's action pursuant to Rule 41 of the Federal Rules of Civil Procedure for violation of

1 these instructions.

2 Plaintiff must sign the complaint. Fed. R. Civ. P. 11(a). By signing an amended  
3 complaint, plaintiff certifies he has made reasonable inquiry and has evidentiary support for his  
4 allegations and that for violation of this rule the court may impose sanctions sufficient to deter  
5 repetition by plaintiff or others. Fed. R. Civ. P. 11.

6 A prisoner may bring no § 1983 action until he has exhausted such administrative  
7 remedies as are available to him. 42 U.S.C. § 1997e(a). The requirement is mandatory. *Booth*  
8 *v. Churner*, 532 U.S. 731, 741 (2001). By signing an amended complaint plaintiff certifies his  
9 claims are warranted by existing law, including the law that he exhaust administrative remedies,  
10 and that for violation of this rule plaintiff risks dismissal of his entire action

11 Accordingly, the court hereby orders that plaintiff's first amended complaint is dismissed  
12 with leave to amend within 30 days. The amended complaint must bear the docket number  
13 assigned to this case and be titled "Second Amended Complaint." Failure to comply with this  
14 order will result in a recommendation that this action be dismissed. If plaintiff files an amended  
15 complaint stating a cognizable claim the court will proceed with service of process by the United  
16 States Marshal.

17 Dated: February 7, 2011.

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EDMUND F. BRENNAN  
19 UNITED STATES MAGISTRATE JUDGE  
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