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

DUSTIN FREITAS,

No. CIV S-09-3328-CMK-P

Plaintiff,

vs.

ORDER TO SHOW CAUSE

JAMES WALKER, et. al.

Defendants.

_____ /

Plaintiff, a state prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has consented to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c) and no other party has been served or appeared in the action. Pending before the court is plaintiff’s complaint (Doc. 1).

On April 27, 2010, the court issued an order providing Plaintiff an opportunity to file an amended complaint in order to cure the defects identified in Plaintiff’s complaint. Specifically, the court informed Plaintiff that his complaint,

read broadly and liberally as the court must, . . . may be sufficient to state a claim of excessive force against defendant Deleon. However, Plaintiff makes no mention of defendant Walker, or how he allegedly violated Plaintiff’s constitutional rights. The court notes defendant Walker is the warden of the prison. As such,

1 Plaintiff may be attempting to impose liability against the warden
2 simply based on his supervisory position. However, if that is
3 Plaintiff's intention, it is insufficient.

4 The court then informed Plaintiff that

5 supervisory personnel are generally not liable under § 1983 for the
6 actions of their employees. See Taylor v. List, 880 F.2d 1040,
7 1045 (9th Cir. 1989) (holding that there is no respondeat superior
8 liability under § 1983). A supervisor is only liable for the
9 constitutional violations of subordinates if the supervisor
10 participated in or directed the violations. See id. The Supreme
11 Court has rejected the notion that a supervisory defendant can be
12 liable based on knowledge and acquiescence in a subordinate's
13 unconstitutional conduct because government officials, regardless
14 of their title, can only be held liable under § 1983 for his or her
15 own conduct and not the conduct of others. See Ashcroft v. Iqbal,
16 129 S. Ct. 1937, 1949 (2009). When a defendant holds a
17 supervisory position, the causal link between such defendant and
18 the claimed constitutional violation must be specifically alleged.
19 See Fayle v. Stapley, 607 F.2d 858, 862 (9th Cir. 1979); Mosher v.
20 Saalfeld, 589 F.2d 438, 441 (9th Cir. 1978). Vague and conclusory
21 allegations concerning the involvement of supervisory personnel in
22 civil rights violations are not sufficient. See Ivey v. Board of
23 Regents, 673 F.2d 266, 268 (9th Cir. 1982). "[A] plaintiff must
24 plead that each Government-official defendant, through the
25 official's own individual actions, has violated the constitution."
26 Iqbal, 129 S. Ct. at 1948.

17 Plaintiff was therefore provided an opportunity to file an amended complaint
18 which included allegations related to defendant Walker's personal involvement in his alleged
19 constitutional violations. Plaintiff, however, has not filed an amended complaint within the time
20 provided.

21 Accordingly, Plaintiff shall show cause in writing, within 30 days of the date of
22 this order, why defendant Walker should not be dismissed from this action for failure to state a
23 claim. Plaintiff is warned that failure to respond to this order may result in dismissal of the

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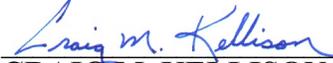
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1 action for the reasons outlined above, as well as for failure to prosecute and comply with court
2 rules and orders. See Local Rule 110.

3 IT IS SO ORDERED

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5 DATED: June 1, 2010

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7 **CRAIG M. KELLISON**
8 UNITED STATES MAGISTRATE JUDGE
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