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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 RICHARD MILLS, No. CIV S-10-3225-CMK-P
12 Plaintiff,
13 vs. ORDER
14 HEFFNER, et al.,
15 Defendants.
16 ______________________________/
17 Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42
18 U.S.C. § 1983. Pending before the court is plaintiff's complaint (Doc. 1).
19 The court is required to screen complaints brought by prisoners seeking relief
20 against a governmental entity or officer or employee of a governmental entity. See 28 U.S.C.
21 § 1915A(a). The court must dismiss a complaint or portion thereof if it: (1) is frivolous or
22 malicious; (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief
23 from a defendant who is immune from such relief. See 28 U.S.C. § 1915A(b)(1), (2). Moreover,
24 the Federal Rules of Civil Procedure require that complaints contain a ". . . short and plain
25 statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2).
26 This means that claims must be stated simply, concisely, and directly. See McHenry v. Renne,

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84 F.3d 1172, 1177 (9th Cir. 1996) (referring to Fed. R. Civ. P. 8(e)(1)). These rules are satisfied if the complaint gives the defendant fair notice of the plaintiff's claim and the grounds upon which it rests. See Kimes v. Stone, 84 F.3d 1121, 1129 (9th Cir. 1996). Because plaintiff must allege with at least some degree of particularity overt acts by specific defendants which support the claims, vague and conclusory allegations fail to satisfy this standard. Additionally, it is impossible for the court to conduct the screening required by law when the allegations are vague and conclusory.

Plaintiff names the following as defendants: Heffner, Heatley, and Hawkins, all of whom are prison doctors, as well as J. Clark Kelso, the receiver for prison health care. Plaintiff alleges that defendants have treated him over the past year and, as such, know that he suffers degenerative disc disease and that his condition is rapidly deteriorating. Plaintiff adds:

> . . . The Defendants have acted very unreasonably in treating my condition, amounting to no corrective operation, which would otherwise satisfy the condition. No reason whatsoever exists to excuse the ignorance of my medical condition by said Defendants and their ignoring my treatment is occurring purposely. Said Defendants know that I am experiencing continuous pain and are not at all prescribing me effective pain medication, and have knowingly reduced the dosages I used to get.

The treatment a prisoner receives in prison and the conditions under which the prisoner is confined are subject to scrutiny under the Eighth Amendment, which prohibits cruel and unusual punishment. See Helling v. McKinney, 509 U.S. 25, 31 (1993); Farmer v. Brennan, 511 U.S. 825, 832 (1994). Negligence in diagnosing or treating a medical condition does not, however, give rise to a claim under the Eighth Amendment. See Estelle v. Gamble, 429 U.S. 97, 102, 106 (1976). Moreover, a difference of opinion between the prisoner and medical providers concerning the appropriate course of treatment does not give rise to an Eighth Amendment claim. See Jackson v. McIntosh, 90 F.3d 330, 332 (9th Cir. 1996).

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The court finds that the allegations set forth in the complaint describe a difference of opinion between plaintiff and prison doctors as to the appropriate course of treatment. In particular, plaintiff does not allege the complete denial of medical care. Rather, he states that the treatment he has received is "unreasonable" and that his medications are not "effective." Thus, it is clear that he is in fact receiving some kind of treatment and medication. Plaintiff's disagreement with the course of his treatment does not state a claim.

Because it does not appear possible that the deficiencies identified herein can be cured by amending the complaint, plaintiff is not entitled to leave to amend prior to dismissal of the entire action. See Lopez v. Smith, 203 F.3d 1122, 1126, 1131 (9th Cir. 2000) (en banc). Plaintiff shall show cause in writing, within 30 days of the date of this order, why this action should not be dismissed for failure to state a claim. Plaintiff is warned that failure to respond to this order may result in dismissal of the action for the reasons outlined above, as well as for failure to prosecute and comply with court rules and orders. See Local Rule 110.

IT IS SO ORDERED.

DATED: June 22, 2011

CRAIG M. KELLISON
UNITED STATES MAGISTRATE JUDGE