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

10 JOSEPH MARPEL,

11 Plaintiff,

No. 2:11-cv-0387 KJN P

12 vs.

13 SAUKHLA, et al.,

14 Defendants.

ORDER

15 _____/
16 On February 22, 2011, the court found that plaintiff's complaint states potentially
17 cognizable Eighth Amendment claims against physicians Saukhla and Bick, the latter defendant
18 the Chief Medical Officer at plaintiff's place of incarceration, the California Medical Facility
19 ("CMF"). Defendants Saukhla and Bick have each appeared in this action by waiving service of
20 process.

21 Presently pending is plaintiff's subsequently-filed motion to amend his complaint
22 to add defendant Nathaniel K. Elam, CMF's Chief Executive Officer. (Dkt. No. 20.) Current
23 defendants have filed a motion requesting that the court screen the "amended complaint" and
24 accord defendants thirty days after the court's screening order within which to file their response
25 to the complaint. (Dkt. No. 21.)

26 Mr. Elam does not appear to be a physician; nor does it appear that he has had any

1 direct contact with plaintiff. Plaintiff seeks to sue Elam in his professional and individual
2 capacities based on his allegations that Elam must be “responsible in some manner” for
3 plaintiff’s allegedly inadequate medical care; that Elam “is the person responsible for overseeing
4 the Medical 602 appeal process at CMF;” that Elam “failed to instruct Defendant N. Saukla MD
5 (sic) and J. Bick MD to perform their duties as indicated” by law; that “had Defendant Elam
6 exercised proper care and due diligence in performing his duties this cause would have no
7 standing;” and that “Plaintiff believes that defendant Elam is responsible for contributing to the
8 deprivation of plaintiff’s right to adequate medical care.” (Dkt. No. 20 at 2-3.)

9 These allegations do not state a potentially cognizable constitutional claim against
10 Mr. Elam. “Under Section 1983, supervisory officials are not liable for actions of subordinates
11 on any theory of vicarious liability. A supervisor may be liable [only] if there exists either (1) his
12 or her personal involvement in the constitutional deprivation, or (2) a sufficient causal
13 connection between the supervisor’s wrongful conduct and the constitutional violation.” Hansen
14 v. Black, 885 F.2d 642, 645-646 (9th Cir. 1989) (citations omitted). Vague and conclusory
15 allegations of official participation in civil rights violations are not sufficient to state a claim
16 under Section 1983. Ivey v. Board of Regents, 673 F.2d 266, 268 (9th Cir. 1982). There can be
17 no liability under Section 1983 absent demonstration of some affirmative link between a
18 defendant’s actions and the claimed deprivation. Rizzo v. Goode, 423 U.S. 362, 371 (1976);
19 May v. Enomoto, 633 F.2d 164, 167 (9th Cir. 1980); Johnson v. Duffy, 588 F.2d 740, 743 (9th
20 Cir. 1978). Pursuant to these authorities, plaintiff’s allegations are insufficient to state a
21 potentially cognizable claim against Mr. Elam. Plaintiff’s motion to amend his complaint must
22 therefore be denied. Should plaintiff later obtain additional information sufficient to state a
23 potentially cognizable claim against Elam, consistent with the requirements set forth above,
24 plaintiff may again move to amend the complaint.

25 Accordingly, IT IS HEREBY ORDERED that:


26 1. Plaintiff’s motion to amend his complaint (Dkt. No. 20) is denied without

1 prejudice;

2 2. Defendants' motion for an extension of time (Dkt. No. 21) within which to file
3 their response to the operative complaint is granted; and

4 3. Defendants shall file their response to the complaint within thirty days after the
5 filing date of this order.

6 DATED: June 23, 2011

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9 KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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