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

ROBERT TAYLOR,

Plaintiff,

No. 2:11-cv-0460 JFM (PC)

vs.

MONROE DETENTION  
CENTER, et al.,

Defendants.

ORDER

Plaintiff is a county jail inmate proceeding pro se. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983 and has requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

Plaintiff has submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a). Accordingly, the request to proceed in forma pauperis will be granted.

Plaintiff is required to pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. §§ 1914(a), 1915(b)(1). By this order, plaintiff will be assessed an initial partial filing fee in accordance with the provisions of 28 U.S.C. § 1915(b)(1). By separate order, the court will direct the appropriate agency to collect the initial partial filing fee from plaintiff's trust account and forward it to the Clerk of the Court. Thereafter, plaintiff will be obligated for monthly

1 payments of twenty percent of the preceding month's income credited to plaintiff's prison trust  
2 account. These payments will be forwarded by the appropriate agency to the Clerk of the Court  
3 each time the amount in plaintiff's account exceeds \$10.00, until the filing fee is paid in full. 28  
4 U.S.C. § 1915(b)(2).

5 The court is required to screen complaints brought by prisoners seeking relief  
6 against a governmental entity or officer or employee of a governmental entity. 28 U.S.C.  
7 § 1915A(a). The court must dismiss a complaint or portion thereof if the prisoner has raised  
8 claims that are legally "frivolous or malicious," that fail to state a claim upon which relief may be  
9 granted, or that seek monetary relief from a defendant who is immune from such relief. 28  
10 U.S.C. § 1915A(b)(1),(2).

11 A claim is legally frivolous when it lacks an arguable basis either in law or in fact.  
12 Neitzke v. Williams, 490 U.S. 319, 325 (1989); Franklin v. Murphy, 745 F.2d 1221, 1227-28  
13 (9th Cir. 1984). The court may, therefore, dismiss a claim as frivolous where it is based on an  
14 indisputably meritless legal theory or where the factual contentions are clearly baseless. Neitzke,  
15 490 U.S. at 327. The critical inquiry is whether a constitutional claim, however inartfully  
16 pleaded, has an arguable legal and factual basis. See Jackson v. Arizona, 885 F.2d 639, 640 (9th  
17 Cir. 1989); Franklin, 745 F.2d at 1227.

18 Rule 8(a)(2) of the Federal Rules of Civil Procedure "requires only 'a short and  
19 plain statement of the claim showing that the pleader is entitled to relief,' in order to 'give the  
20 defendant fair notice of what the . . . claim is and the grounds upon which it rests.'" Bell Atlantic  
21 Corp. v. Twombly, 550 U.S. 544, 127 S.Ct. 1955, 1964 (2007) (quoting Conley v. Gibson, 355  
22 U.S. 41, 47 (1957)). In order to survive dismissal for failure to state a claim a complaint must  
23 contain more than "a formulaic recitation of the elements of a cause of action;" it must contain  
24 factual allegations sufficient "to raise a right to relief above the speculative level." Bell Atlantic,  
25 id. However, "[s]pecific facts are not necessary; the statement [of facts] need only "give the  
26 defendant fair notice of what the . . . claim is and the grounds upon which it rests.'" Erickson

1 v. Pardus, 551 U.S. 89, 127 S.Ct. 2197, 2200 (2007) (quoting Bell, 127 S.Ct. at 1964, in turn  
2 quoting Conley v. Gibson, 355 U.S. 41, 47 (1957)). In reviewing a complaint under this  
3 standard, the court must accept as true the allegations of the complaint in question, Erickson, *id.*,  
4 and construe the pleading in the light most favorable to the plaintiff. Scheuer v. Rhodes, 416  
5 U.S. 232, 236 (1974).

6 In his complaint, plaintiff alleges that he has suffered a stroke and job related  
7 injuries and that he receives social security disability benefits. Plaintiff alleges that he is being  
8 housed in a upper bunk at the Monroe Detention Center and is required to climb stairs to get to  
9 the upper bunk. Plaintiff appears to claim that this housing placement violates his rights under  
10 the Americans with Disabilities Act. Plaintiff names as defendants the Monroe Detention Center  
11 and E. G. Prieto, the Sheriff-Coroner of Yolo County.

12 Although the court can understand the fundamental nature of plaintiff's claim, he  
13 has failed to adequately link any defendant to this claim. The Civil Rights Act under which this  
14 action was filed provides as follows:

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

20 42 U.S.C. § 1983. The statute requires that there be an actual connection or link between the  
21 actions of the defendants and the deprivation alleged to have been suffered by plaintiff. See  
22 Monell v. Department of Social Servs., 436 U.S. 658 (1978); Rizzo v. Goode, 423 U.S. 362  
23 (1976). "A person 'subjects' another to the deprivation of a constitutional right, within the  
24 meaning of § 1983, if he does an affirmative act, participates in another's affirmative acts or  
25 omits to perform an act which he is legally required to do that causes the deprivation of which  
26 complaint is made." Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978).

Moreover, supervisory personnel are generally not liable under § 1983 for the  
actions of their employees under a theory of respondeat superior and, therefore, when a named

1 defendant holds a supervisorial position, the causal link between him and the claimed  
2 constitutional violation must be specifically alleged. See Fayle v. Stapley, 607 F.2d 858, 862  
3 (9th Cir. 1979); Mosher v. Saalfeld, 589 F.2d 438, 441 (9th Cir. 1978), cert. denied, 442 U.S.  
4 941 (1979). Vague and conclusory allegations concerning the involvement of official personnel  
5 in civil rights violations are not sufficient. See Ivey v. Board of Regents, 673 F.2d 266, 268 (9th  
6 Cir. 1982).

7           Although the Federal Rules adopt a flexible pleading policy, a complaint must  
8 give fair notice and state the elements of the claim plainly and succinctly. Jones v. Community  
9 Redev. Agency, 733 F.2d 646, 649 (9th Cir. 1984). Plaintiff must allege with at least some  
10 degree of particularity overt acts which defendants engaged in that support plaintiff's claim. Id.  
11 Because plaintiff has failed to allege overt acts by any named defendant, the complaint must be  
12 dismissed. The court will, however, grant leave to file an amended complaint.

13           If plaintiff chooses to amend the complaint, plaintiff must demonstrate how the  
14 conditions complained of have resulted in a deprivation of plaintiff's constitutional rights. See  
15 Ellis v. Cassidy, 625 F.2d 227 (9th Cir. 1980). Also, the complaint must allege in specific terms  
16 how each named defendant is involved. There can be no liability under 42 U.S.C. § 1983 unless  
17 there is some affirmative link or connection between a defendant's actions and the claimed  
18 deprivation. Rizzo v. Goode, 423 U.S. 362 (1976); May v. Enomoto, 633 F.2d 164, 167 (9th Cir.  
19 1980); Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978). Furthermore, vague and conclusory  
20 allegations of official participation in civil rights violations are not sufficient. Ivey v. Board of  
21 Regents, 673 F.2d 266, 268 (9th Cir. 1982).

22           In addition, plaintiff is informed that the court cannot refer to a prior pleading in  
23 order to make plaintiff's amended complaint complete. Local Rule 220 requires that an amended  
24 complaint be complete in itself without reference to any prior pleading. This is because, as a  
25 general rule, an amended complaint supersedes the original complaint. See Loux v. Rhay, 375  
26 F.2d 55, 57 (9th Cir. 1967). Once plaintiff files an amended complaint, the original pleading no

1 longer serves any function in the case. Therefore, in an amended complaint, as in an original  
2 complaint, each claim and the involvement of each defendant must be sufficiently alleged.

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

- 4 1. Plaintiff's request for leave to proceed in forma pauperis is granted.  
5 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action.

6 Plaintiff is assessed an initial partial filing fee in accordance with the provisions of 28 U.S.C.  
7 § 1915(b)(1). All fees shall be collected and paid in accordance with this court's order to the  
8 Sheriff of Yolo County filed concurrently herewith.

9 3. Plaintiff's complaint is dismissed.

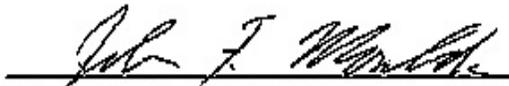
10 4. Within thirty days from the date of this order, plaintiff shall complete the  
11 attached Notice of Amendment and submit the following documents to the court:

12 a. The completed Notice of Amendment; and

13 b. An original and one copy of the Amended Complaint.

14 Plaintiff's amended complaint shall comply with the requirements of the Civil Rights Act, the  
15 Federal Rules of Civil Procedure, and the Local Rules of Practice; the amended complaint must  
16 bear the docket number assigned this case and must be labeled "Amended Complaint"; failure to  
17 file an amended complaint in accordance with this order may result in the dismissal of this  
18 action.

19 DATED: March 25, 2011.

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22 UNITED STATES MAGISTRATE JUDGE

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ROBERT TAYLOR,

Plaintiff,

No. 2:11-cv-0460 JFM (PC)

vs.

MONROE DETENTION CENTER, et al.,

NOTICE OF AMENDMENT

Defendants.

\_\_\_\_\_ /

Plaintiff hereby submits the following document in compliance with the court's  
order filed \_\_\_\_\_:

\_\_\_\_\_ Amended Complaint

DATED:

\_\_\_\_\_  
Plaintiff