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

ALFRED JAMES FOY,
Plaintiff,

No. CIV S-11-3262-CMK-P

vs.

ORDER

VALLEJO POLICE DEPARTMENT,
Defendant.

_____ /

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff’s complaint (Doc. 1).

The court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. See 28 U.S.C. § 1915A(a). The court must dismiss a complaint or portion thereof if it: (1) is frivolous or malicious; (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief from a defendant who is immune from such relief. See 28 U.S.C. § 1915A(b)(1), (2). Moreover, the Federal Rules of Civil Procedure require that complaints contain a “. . . short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). This means that claims must be stated simply, concisely, and directly. See McHenry v. Renne,

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

8 I. PLAINTIFF'S ALLEGATIONS

9 Plaintiff is claiming he was subjected to excessive force by the Vallejo Police
10 Department and the Fairfield Police Department in connection with an apparent arrest. He states
11 that after he followed the officers' directions and submitted, he suffered a Tazer shot, beating by
12 several officers, and bites from a K-9 officer.

13 II. DISCUSSION

14 Plaintiff's complaint suffers from two major defects. First, plaintiff fails to
15 identify the officers who were personally involved in the alleged used of excessive force. To
16 state a claim under 42 U.S.C. § 1983, the plaintiff must allege an actual connection or link
17 between the actions of the named defendants and the alleged deprivations. See Monell v. Dep't
18 of Social Servs., 436 U.S. 658 (1978); Rizzo v. Goode, 423 U.S. 362 (1976). "A person
19 'subjects' another to the deprivation of a constitutional right, within the meaning of § 1983, if he
20 does an affirmative act, participates in another's affirmative acts, or omits to perform an act
21 which he is legally required to do that causes the deprivation of which complaint is made."
22 Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978). Vague and conclusory allegations
23 concerning the involvement of official personnel in civil rights violations are not sufficient. See
24 Ivey v. Board of Regents, 673 F.2d 266, 268 (9th Cir. 1982). Rather, the plaintiff must set forth
25 specific facts as to each individual defendant's causal role in the alleged constitutional
26 deprivation. See Leer v. Murphy, 844 F.2d 628, 634 (9th Cir. 1988). If it is plaintiff's intention

1 amend, all claims alleged in the original complaint which are not alleged in the amended
2 complaint are waived. See King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987). Therefore, if
3 plaintiff amends the complaint, the court cannot refer to the prior pleading in order to make
4 plaintiff's amended complaint complete. See Local Rule 220. An amended complaint must be
5 complete in itself without reference to any prior pleading. See id.

6 If plaintiff chooses to amend the complaint, plaintiff must demonstrate how the
7 conditions complained of have resulted in a deprivation of plaintiff's constitutional rights. See
8 Ellis v. Cassidy, 625 F.2d 227 (9th Cir. 1980). The complaint must allege in specific terms how
9 each named defendant is involved, and must set forth some affirmative link or connection
10 between each defendant's actions and the claimed deprivation. See May v. Enomoto, 633 F.2d
11 164, 167 (9th Cir. 1980); Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978).

12 Finally, plaintiff is warned that failure to file an amended complaint within the
13 time provided in this order may be grounds for dismissal of this action. See Ferdik, 963 F.2d at
14 1260-61; see also Local Rule 110. Plaintiff is also warned that a complaint which fails to comply
15 with Rule 8 may, in the court's discretion, be dismissed with prejudice pursuant to Rule 41(b).
16 See Nevijel v. North Coast Life Ins. Co., 651 F.2d 671, 673 (9th Cir. 1981).

17 Accordingly, IT IS HEREBY ORDERED that:

- 18 1. Plaintiff's complaint is dismissed with leave to amend; and
- 19 2. Plaintiff shall file an amended complaint within 30 days of the date of
20 service of this order.

21
22 DATED: February 6, 2012

23 
24 **CRAIG M. KELLISON**
25 UNITED STATES MAGISTRATE JUDGE
26