

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SAADHI ABDUL COLEMAN,
Plaintiff,
v.
FRED FOULK, et al.,
Defendants.

No. 2:13-cv-1753 CKD P

ORDER

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

1 The court is required to screen complaints brought by prisoners where, as here, the
2 prisoner seeks relief against a governmental entity or officer or employee of a governmental
3 entity. 28 U.S.C. § 1915A(a). The court has conducted the required screening.

4 Plaintiff's complaint is 80 pages long. It was handwritten by plaintiff in small, at times
5 illegible print. Most of the complaint is a recitation of allegations of fact which are not material
6 to any valid cause of action upon which plaintiff could proceed in this court. Because the
7 complaint fails, in any sense, to comply with the requirement that a complaint contain only a
8 "short and plain statement of the claim showing that the pleader is entitled to relief," Fed. R. Civ.
9 P. 8(2), the complaint will be dismissed.

10 The court will, however, grant leave to amend. In the amended complaint, plaintiff shall
11 not present allegations of fact which do not support any claim upon which plaintiff may obtain
12 relief in this court. While the court understands that plaintiff is a pro se litigant, and therefore
13 entitled to a liberal interpretation of his pleadings, plaintiff is not entitled to bombard the court
14 and defendants with page after page of meaningless allegations in a flailing attempt to state a
15 claim upon which the court could grant relief. If plaintiff believes he has been harmed to a degree
16 which is actionable in this court, plaintiff should identify specifically how he was harmed (i.e.
17 what actionable injury he has suffered) and then include only those facts which identify who
18 actually caused him harm. Plaintiff must omit meaningless background information and
19 defendants who either had no part in causing plaintiff harm or whom plaintiff merely suspects had
20 some part without any facts to back up his suspicions.

21 The court notes that plaintiff has commenced several other actions in this court, and
22 assumes he has filed actions in other courts. In his amended complaint, plaintiff shall not include
23 any claims which have been finally adjudicated in other actions.

24 Finally, with respect to any amended complaint, plaintiff is informed that the court cannot
25 refer to a prior pleading in order to make plaintiff's amended complaint complete. Local Rule
26 220 requires that an amended complaint be complete in itself without reference to any prior
27 pleading. This is because, as a general rule, an amended complaint supersedes the original
28 complaint. See Loux v. Rhay, 375 F.2d 55, 57 (9th Cir. 1967). Once plaintiff files an amended

1 complaint, the original pleading no longer serves any function in the case. Therefore, in an
2 amended complaint, as in an original complaint, each claim and the involvement of each
3 defendant must be sufficiently alleged.

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

5 1. Plaintiff's request for leave to proceed in forma pauperis (ECF No. 7) is granted.

6 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. All fees
7 shall be collected and paid in accordance with this court's order to the Director of the California
8 Department of Corrections and Rehabilitation filed concurrently herewith.

9 3. Plaintiff's complaint is dismissed.

10 4. Plaintiff is granted thirty days from the date of service of this order to file an amended
11 complaint that complies with the requirements of this order, the Civil Rights Act, the Federal
12 Rules of Civil Procedure, and the Local Rules of Practice. The amended complaint must bear the
13 docket number assigned this case and must be labeled "Amended Complaint. Failure to file an
14 amended complaint in accordance with this order within 30 days will result in a recommendation
15 that this action be dismissed.

16 Dated: February 26, 2014



17 CAROLYN K. DELANEY
18 UNITED STATES MAGISTRATE JUDGE

19
20
21
22 1
23 cole1753.14
24
25
26
27
28