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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ARTHUR ANDERSON,  
Plaintiff,  
v.  
McINTRNY, et al.,  
Defendants.

No. 2:14-cv-0011 CKD P

ORDER

Plaintiff is a state prisoner, proceeding pro se and in forma pauperis, who seeks relief pursuant to 42 U.S.C. § 1983. Plaintiff’s First Amended Complaint was dismissed for failure to state a claim, and plaintiff was granted leave to amend. (ECF No. 13.) Before the court is plaintiff’s Second Amended Complaint (“SAC”), filed April 4, 2014.<sup>1</sup> (ECF No. 16.)

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

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<sup>1</sup> As the first complaint screened in this action was the First Amended Complaint (see ECF No. 13, n.1), the SAC reflects only the first round of amendment.

1 Here, the court finds that the SAC fails to cure the defects of the previous complaint.  
2 Plaintiff alleges that defendant McIntry<sup>2</sup> called him a racist name and told him that if he filed a  
3 602 inmate appeal, it would “go nowhere.” Some unspecified time later, plaintiff filled out a 602  
4 appeal against McIntry and gave it to non-defendant Correctional Officer Handshoemaker for  
5 pick-up. Because he never received a notice it had been submitted, plaintiff assumed that the  
6 appeal was thrown away. He alleges that McIntry and Handshoemaker work together. Plaintiff  
7 filed a second 602 appeal about McIntry and was subsequently interviewed about it.

8 On these bare allegations, plaintiff fails to state a cognizable claim. (See ECF No. 13 at 3  
9 (legal standard for retaliation claim pursuant to § 1983).) To state a § 1983 claim, a plaintiff must  
10 allege facts showing each named defendant either exhibited some sort of “direct personal  
11 participation in the deprivation” or “set[ ] in motion a series of acts by others which the actor  
12 [knew] or reasonably should [have known] would cause others to inflict the constitutional injury.”  
13 Johnson v. Duffy, 588 F.2d 740, 743–744 (9th Cir. 1978). There must be an actual causal link  
14 between the actions of the named defendants and the alleged constitutional deprivation. See  
15 Monell v. Dep’t of Soc. Services, 436 U.S. 658, 691–92 (1978).

16 However, the court will grant plaintiff one final opportunity to amend. If plaintiff chooses  
17 to amend the complaint, plaintiff must demonstrate how the conditions complained of have  
18 resulted in a deprivation of plaintiff’s constitutional rights. See Ellis v. Cassidy, 625 F.2d 227  
19 (9th Cir. 1980). Also, the complaint must allege in specific terms how each named defendant is  
20 involved. There can be no liability under 42 U.S.C. § 1983 unless there is some affirmative link  
21 or connection between a defendant’s actions and the claimed deprivation. Rizzo v. Goode, 423  
22 U.S. 362 (1976); May v. Enomoto, 633 F.2d 164, 167 (9th Cir. 1980); Johnson v. Duffy, 588 F.2d  
23 740, 743 (9th Cir. 1978). Furthermore, vague and conclusory allegations of official participation  
24 in civil rights violations are not sufficient. Ivey v. Board of Regents, 673 F.2d 266, 268 (9th Cir.  
25 1982). If plaintiff chooses to amend the complaint, he should set forth a “short and plain  
26 statement” of his claim and any related claims against the appropriate defendants.

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<sup>2</sup> Spelled “McIntrny” in the original complaint and in the caption of this action.

1 In addition, plaintiff is informed that the court cannot refer to a prior pleading in order to  
2 make plaintiff's amended complaint complete. Local Rule 220 requires that an amended  
3 complaint be complete in itself without reference to any prior pleading. This is because, as a  
4 general rule, an amended complaint supersedes the original complaint. See Loux v. Rhay, 375  
5 F.2d 55, 57 (9th Cir. 1967). Once plaintiff files an amended complaint, the original pleading no  
6 longer serves any function in the case. Therefore, in an amended complaint, as in an original  
7 complaint, each claim and the involvement of each defendant must be sufficiently alleged.

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. The Second Amended Complaint (ECF No. 16) is dismissed;
- 10 2. Plaintiff is granted thirty days from the date of this order to file a Third Amended  
11 Complaint. Failure to timely file an amended complaint will result in a recommendation that this  
12 action be dismissed.

13 Dated: April 24, 2014

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16 CAROLYN K. DELANEY  
17 UNITED STATES MAGISTRATE JUDGE

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