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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JEREMY JAMISON,
Plaintiff,
v.
YC PARMIA INSURANCE GROUP, et
al.,
Defendants.

No. 2:14-cv-1710 GEB KJN P

ORDER

Plaintiff is a state prisoner proceeding without counsel. 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 to make monthly payments of twenty percent of the preceding month's income credited to plaintiff's trust account.

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

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

9 A claim is legally frivolous when it lacks an arguable basis either in law or in fact.
10 Neitzke v. Williams, 490 U.S. 319, 325 (1989); Franklin v. Murphy, 745 F.2d 1221, 1227-28 (9th
11 Cir. 1984). The court may, therefore, dismiss a claim as frivolous when it is based on an
12 indisputably meritless legal theory or where the factual contentions are clearly baseless. Neitzke,
13 490 U.S. at 327. The critical inquiry is whether a constitutional claim, however inartfully
14 pleaded, has an arguable legal and factual basis. See Jackson v. Arizona, 885 F.2d 639, 640 (9th
15 Cir. 1989), superseded by statute as stated in Lopez v. Smith, 203 F.3d 1122, 1130-31 (9th Cir.
16 2000) ("a judge may dismiss [in forma pauperis] claims which are based on indisputably
17 meritless legal theories or whose factual contentions are clearly baseless."); Franklin, 745 F.2d at
18 1227.

19 Rule 8(a)(2) of the Federal Rules of Civil Procedure "requires only 'a short and plain
20 statement of the claim showing that the pleader is entitled to relief,' in order to 'give the
21 defendant fair notice of what the . . . claim is and the grounds upon which it rests.'" Bell Atlantic
22 Corp. v. Twombly, 550 U.S. 544, 555 (2007) (quoting Conley v. Gibson, 355 U.S. 41, 47 (1957)).
23 In order to survive dismissal for failure to state a claim, a complaint must contain more than "a
24 formulaic recitation of the elements of a cause of action;" it must contain factual allegations
25 sufficient "to raise a right to relief above the speculative level." Bell Atlantic, 550 U.S. at 555.
26 However, "[s]pecific facts are not necessary; the statement [of facts] need only 'give the
27 defendant fair notice of what the . . . claim is and the grounds upon which it rests.'" Erickson v.
28 Pardus, 551 U.S. 89, 93 (2007) (quoting Bell Atlantic, 550 U.S. at 555, citations and internal

1 quotations marks omitted). In reviewing a complaint under this standard, the court must accept as
2 true the allegations of the complaint in question, Erickson, 551 U.S. at 93, and construe the
3 pleading in the light most favorable to the plaintiff. Scheuer v. Rhodes, 416 U.S. 232, 236
4 (1974), overruled on other grounds, Davis v. Scherer, 468 U.S. 183 (1984).

5 The Civil Rights Act under which this action was filed provides as follows:

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

11 42 U.S.C. § 1983. The statute requires that there be an actual connection or link between the
12 actions of the defendants and the deprivation alleged to have been suffered by plaintiff. See
13 Monell v. Department of Social Servs., 436 U.S. 658 (1978) (“Congress did not intend § 1983
14 liability to attach where . . . causation [is] absent.”); Rizzo v. Goode, 423 U.S. 362 (1976) (no
15 affirmative link between the incidents of police misconduct and the adoption of any plan or policy
16 demonstrating their authorization or approval of such misconduct). “A person ‘subjects’ another
17 to the deprivation of a constitutional right, within the meaning of § 1983, if he does an
18 affirmative act, participates in another’s affirmative acts or omits to perform an act which he is
19 legally required to do that causes the deprivation of which complaint is made.” Johnson v. Duffy,
20 588 F.2d 740, 743 (9th Cir. 1978).

21 Moreover, supervisory personnel are generally not liable under § 1983 for the actions of
22 their employees under a theory of respondeat superior and, therefore, when a named defendant
23 holds a supervisory position, the causal link between him and the claimed constitutional
24 violation must be specifically alleged. See Fayle v. Stapley, 607 F.2d 858, 862 (9th Cir. 1979)
25 (no liability where there is no allegation of personal participation); Mosher v. Saalfeld, 589 F.2d
26 438, 441 (9th Cir. 1978) (no liability where there is no evidence of personal participation), cert.
27 denied, 442 U.S. 941 (1979). Vague and conclusory allegations concerning the involvement of
28 official personnel in civil rights violations are not sufficient. See Ivey v. Board of Regents, 673
F.2d 266, 268 (9th Cir. 1982) (complaint devoid of specific factual allegations of personal
participation is insufficient).

1 Plaintiff alleges that while he was being transported by van from Deuel Vocational
2 Institution (“DVI”) to the Yolo County Jail, the Yolo County Sheriff’s Officers did not use seat
3 belts to buckle plaintiff up, nor was the van equipped with any safety belts. During this transport,
4 plaintiff alleges the officer was driving 80 miles an hour and collided with a big rig on the
5 interstate. Plaintiff sustained neck and back injuries, as well as “permanent left leg deadness.”
6 (ECF No. 1 at 3.)

7 It appears plaintiff may state a cognizable Eighth Amendment violation. However,
8 plaintiff did not sign or date the complaint. Rule 11 of the Federal Rules of Civil Procedure
9 requires that all pleadings be signed by pro se litigants. Accordingly, plaintiff’s complaint is
10 dismissed with leave to file a signed amended complaint.

11 In addition, plaintiff appended various copies of pages from law books. (ECF No. 1 at 4-
12 9.) Plaintiff is advised that he is not required to cite case law or other legal authorities, but rather
13 should focus on the factual allegations supporting his contentions that the defendants violated his
14 constitutional rights.

15 Finally, plaintiff is reminded that he must include charging allegations as to each named
16 defendant.

17 The Eighth Amendment's prohibition on cruel and unusual punishment imposes on prison
18 officials, among other things, a duty to “take reasonable measures to guarantee the safety of the
19 inmates.” Farmer v. Brennan, 511 U.S. 825, 832 (1991) (quoting Hudson v. Palmer, 468 U.S.
20 517, 526-27 (1984)). To properly allege an Eighth Amendment claim for failure to protect, the
21 inmate must assert that he was incarcerated under conditions posing a “substantial risk of serious
22 harm,” and that a prison official displayed “deliberate indifference” to that risk. Id. at 834. A
23 prison official displays deliberate indifference when he is “both aware of facts from which the
24 inference could be drawn that a substantial risk of serious harm exists, and he must also draw the
25 inference.” Id. at 837.

26 In any amended complaint, plaintiff must specifically identify the acts or omissions that
27 plaintiff contends constitute deliberate indifference to plaintiff’s safety in violation of the Eighth
28 Amendment. In other words, plaintiff must allege facts demonstrating that each named defendant

1 was aware that plaintiff's safety was at risk.

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

3 1. Plaintiff's request for leave to proceed in forma pauperis is granted.

4 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. Plaintiff
5 is assessed an initial partial filing fee in accordance with the provisions of 28 U.S.C.
6 § 1915(b)(1). All fees shall be collected and paid in accordance with this court's order to the
7 Director of the California Department of Corrections and Rehabilitation filed concurrently
8 herewith.

9 3. Plaintiff's complaint is dismissed.

10 4. Within thirty days from the date of this order, plaintiff shall complete the attached
11 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 signed 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 also bear the docket number assigned to this case and must be labeled "Amended Complaint."
17 Failure to file an amended complaint in accordance with this order may result in the dismissal of
18 this action.

19 Dated: August 26, 2014

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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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NOTICE OF AMENDMENT

Plaintiff hereby submits the following document in compliance with the court's order
filed _____.

DATED: _____ Signed Amended Complaint

Plaintiff