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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID REYES,
Plaintiff,
v.
A. YOUNG, et al.,
Defendants.

No. 2:14-cv-2711 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 seeking relief against a
2 governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The
3 court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally
4 “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek
5 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1),(2).

6 Fed. R. Civ. P. 8 sets forth general rules of notice pleading in the federal courts. See
7 Swierkiewicz v. Sorema, 534 U.S. 506 (2002). Complaints are required to set a forth (1) the
8 grounds upon which the court’s jurisdiction rests, (2) a short and plain statement of the claim
9 showing entitlement to relief; and (3) a demand for the relief plaintiff seeks. Rule 8 requires only
10 “sufficient allegations to put defendants fairly on notice of the claims against them.” McKeever
11 v. Block, 932 F.2d 795, 798 (9th Cir. 1991). Even if the factual elements of the cause of action
12 are present, but are scattered throughout the complaint and are not organized into a “short and
13 plain statement of the claim,” dismissal for failure to satisfy Rule 8(a)(2) is proper. McHenry v.
14 Renne, 84 F.3d 1172, 1178 (9th Cir. 1996).

15 Here, plaintiff’s complaint alleges a variety of misdeeds by eleven defendants over the
16 course of an eight-year period, 2005 through 2012. His claims cover a wide range of alleged
17 violations of constitutional and/or statutory law, including “negligence, . . . deliberate
18 indifference, unprofessional acts, harassment, retaliation,” and other “cruel and abusive”
19 practices. (ECF No. 1 at 9.) He further alleges that prison officials violated his property and due
20 process rights. Many of these claims appear to be unrelated to one another, and it is unduly
21 burdensome to determine which, if any, state a cognizable claim pursuant to §1983. This
22 complaint illustrates the “unfair burdens” imposed by complaints, “prolix in evidentiary detail,
23 yet without simplicity, conciseness and clarity” which “fail to perform the essential functions of a
24 complaint.” McHenry, 84 F.3d at 1179-80.

25 A major flaw of the complaint is that it attempts to bring numerous unrelated claims in a
26 single action. Fed. R. Civ. P. 18(a) provides: “A party asserting a claim to relief as an original
27 claim, counterclaim, cross-claim, or third-party claim, may join, either as independent or as
28 alternate claims, as many claims, legal, equitable, or maritime as the party has against an

1 opposing party.” “Thus multiple claims against a single party are fine, but Claim A against
2 Defendant 1 should not be joined with unrelated Claim B against Defendant 2.” George v. Smith,
3 507 F.3d 605, 607 (7th Cir. 2007). “Unrelated claims against different defendants belong in
4 different suits[.]” Id.

5 Additionally, many of plaintiff’s allegations are vague and conclusory. Although the
6 Federal Rules of Civil Procedure adopt a flexible pleading policy, a complaint must give fair
7 notice and state the elements of the claim plainly and succinctly. Jones v. Community Redev.
8 Agency, 733 F.2d 646, 649 (9th Cir. 1984). Plaintiff must allege with at least some degree of
9 particularity overt acts which defendants engaged in that support plaintiff’s claim. Id.

10 For these reasons, plaintiff’s complaint must be dismissed. However, plaintiff will be
11 granted one opportunity to file an amended complaint.

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

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

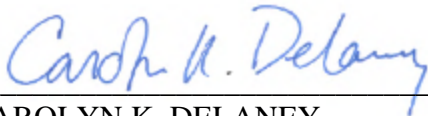
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In accordance with the above, IT IS HEREBY ORDERED that:

1. Plaintiff's request for leave to proceed in forma pauperis is granted.
2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. All fees shall be collected and paid in accordance with this court's order to the Director of the California Department of Corrections and Rehabilitation filed concurrently herewith.
3. Plaintiff's complaint is dismissed.
4. Plaintiff is granted thirty days from the date of service of this order to file an amended complaint that complies with the requirements of the Civil Rights Act, the Federal Rules of Civil Procedure, and the Local Rules of Practice; the amended complaint must bear the docket number assigned this case and must be labeled "Amended Complaint"; plaintiff must file an original and two copies of the amended complaint; failure to file an amended complaint in accordance with this order will result in a recommendation that this action be dismissed.

Dated: January 22, 2015



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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