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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

EVERETT MUHAMMAD-SNELL,
Plaintiff,
v.
RONALD RACKLEY, et al.,
Defendants.

No. 2:14-cv-2733 WBS KJN P

ORDER

Plaintiff is a former 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 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.

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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1 A claim is legally frivolous when it lacks an arguable basis either in law or in fact.
2 Neitzke v. Williams, 490 U.S. 319, 325 (1989); Franklin v. Murphy, 745 F.2d 1221, 1227-28 (9th
3 Cir. 1984). The court may, therefore, dismiss a claim as frivolous when it is based on an
4 indisputably meritless legal theory or where the factual contentions are clearly baseless. Neitzke,
5 490 U.S. at 327. The critical inquiry is whether a constitutional claim, however inartfully
6 pleaded, has an arguable legal and factual basis. See Jackson v. Arizona, 885 F.2d 639, 640 (9th
7 Cir. 1989), superseded by statute as stated in Lopez v. Smith, 203 F.3d 1122, 1130-31 (9th Cir.
8 2000) (“[A] judge may dismiss [in forma pauperis] claims which are based on indisputably
9 meritless legal theories or whose factual contentions are clearly baseless.”); Franklin, 745 F.2d at
10 1227.

11 Rule 8(a)(2) of the Federal Rules of Civil Procedure “requires only ‘a short and plain
12 statement of the claim showing that the pleader is entitled to relief,’ in order to ‘give the
13 defendant fair notice of what the . . . claim is and the grounds upon which it rests.’” Bell Atlantic
14 Corp. v. Twombly, 550 U.S. 544, 555 (2007) (quoting Conley v. Gibson, 355 U.S. 41, 47 (1957)).
15 In order to survive dismissal for failure to state a claim, a complaint must contain more than “a
16 formulaic recitation of the elements of a cause of action;” it must contain factual allegations
17 sufficient “to raise a right to relief above the speculative level.” Bell Atlantic, 550 U.S. at 555.
18 However, “[s]pecific facts are not necessary; the statement [of facts] need only ‘give the
19 defendant fair notice of what the . . . claim is and the grounds upon which it rests.’” Erickson v.
20 Pardus, 551 U.S. 89, 93 (2007) (quoting Bell Atlantic, 550 U.S. at 555, citations and internal
21 quotations marks omitted). In reviewing a complaint under this standard, the court must accept as
22 true the allegations of the complaint in question, Erickson, 551 U.S. at 93, and construe the
23 pleading in the light most favorable to the plaintiff. Scheuer v. Rhodes, 416 U.S. 232, 236
24 (1974), overruled on other grounds, Davis v. Scherer, 468 U.S. 183 (1984).

25 Plaintiff alleges that his constitutional rights were violated by the appeals coordinator
26 Malmendier and “his constituent” Warden Rackley by obstructing plaintiff’s administrative
27 appeals, and improperly denying plaintiff participation in and the benefits of prison services,
28 programs or activities on the basis of his physical and mental impairments. (ECF No. 1 at 3.)

1 Plaintiff alleges his constitutional rights were violated by “constant frivolous screenings, missing
2 supporting documents, and processing malfeasance.” (Id.) Plaintiff asks the court to “declare, by
3 injunction, [that] this appeals process (censoring) effectively unavailable.” (ECF No. 1 at 3.)
4 Plaintiff also seeks monetary damages.

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 provided copies of his administrative appeals and the responses thereto. (ECF
2 No. 1 at 5-26.) None of these exhibits reflect that Warden Rackley was involved in the
3 processing of plaintiff's administrative appeals. Plaintiff is advised that an allegation that the
4 warden "sanctioned" the appeals process, based on his role as warden, is insufficient to
5 demonstrate a link or connection to plaintiff's allegations.

6 Moreover, prisoners have no stand-alone due process rights related to the administrative
7 grievance process. See Mann v. Adams, 855 F.2d 639, 640 (9th Cir. 1988); see also Ramirez v.
8 Galaza, 334 F.3d 850, 860 (9th Cir. 2003) (holding that there is no liberty interest entitling
9 inmates to a specific grievance process). Put another way, prison officials are not required under
10 federal law to process inmate grievances in a specific way or to respond to them in a favorable
11 manner. Because there is no right to any particular grievance process, plaintiff cannot state a
12 cognizable civil rights claim for a violation of his due process rights based on allegations that
13 prison officials ignored or failed to properly process grievances. See, e.g., Wright v. Shannon,
14 2010 WL 445203 at *5 (E.D. Cal. Feb. 2, 2010) (plaintiff's allegations that prison officials denied
15 or ignored his inmate appeals failed to state a cognizable claim under the First Amendment);
16 Walker v. Vazquez, 2009 WL 5088788 at *6-7 (E.D. Cal. Dec.17, 2009) (plaintiff's allegations
17 that prison officials failed to timely process his inmate appeals failed to state a cognizable claim under
18 the Fourteenth Amendment); Towner v. Knowles, 2009 WL 4281999 at *2 (E.D. Cal. Nov. 20,
19 2009) (plaintiff's allegations that prison officials screened out his inmate appeals without any
20 basis failed to indicate a deprivation of federal rights); Williams v. Cate, 2009 WL 3789597 at *6
21 (E.D. Cal. Nov.10, 2009) ("Plaintiff has no protected liberty interest in the vindication of his
22 administrative claims.").

23 In addition, plaintiff included no charging allegations as to the defendant named as the
24 "CDCR Medical Receiver." (ECF No. 1 at 2.) Plaintiff must include factual allegations to
25 support claims against each named defendant.

26 Plaintiff also names Doe defendants. The Ninth Circuit has held that where the identity of
27 a defendant is unknown prior to the filing of a complaint, the plaintiff should be given an
28 opportunity through discovery to identify the unknown defendants, unless it is clear that

1 discovery would not uncover the identities or that the complaint would be dismissed on other
2 grounds. Wakefield v. Thompson, 177 F.3d 1160, 1163 (9th Cir. 1999) (citing Gillespie v.
3 Civiletti, 629 F.2d 637, 642 (9th Cir. 1980)). Here, however, plaintiff does not identify which
4 defendant Does committed what alleged act. This lack of information is insufficient to put
5 prospective defendants on notice of their alleged actions or omissions that plaintiff claims violate
6 his federal rights. In order to link Doe defendants to the alleged acts or omissions that
7 demonstrate a violation of plaintiff's federal rights, plaintiff is granted leave to amend, to either
8 name the defendants involved or identify the Doe defendant by his or her actions. Plaintiff is
9 reminded that "[a] plaintiff must allege facts, not simply conclusions, that show that an individual
10 was personally involved in the deprivation of his civil rights." Barren v. Harrington, 152 F.3d
11 1193, 1194 (9th Cir. 1998).

12 The court finds the allegations in plaintiff's complaint so vague and conclusory that it is
13 unable to determine whether the current action is frivolous or fails to state a claim for relief. The
14 court has determined that the complaint does not contain a short and plain statement as required
15 by Fed. R. Civ. P. 8(a)(2). Although the Federal Rules adopt a flexible pleading policy, a
16 complaint must give fair notice and state the elements of the claim plainly and succinctly. Jones
17 v. Cmty. Redev. Agency, 733 F.2d 646, 649 (9th Cir. 1984). Plaintiff must allege with at least
18 some degree of particularity overt acts which defendants engaged in that support plaintiff's claim.
19 Id. Because plaintiff has failed to comply with the requirements of Fed. R. Civ. P. 8(a)(2), the
20 complaint must be dismissed. The court will, however, grant leave to file an amended complaint.

21 If plaintiff chooses to amend the complaint, plaintiff must demonstrate how the conditions
22 about which he complains resulted in a deprivation of plaintiff's constitutional rights. Rizzo, 423
23 U.S. at 371. Also, the complaint must allege in specific terms how each named defendant is
24 involved. Id. There can be no liability under 42 U.S.C. § 1983 unless there is some affirmative
25 link or connection between a defendant's actions and the claimed deprivation. Id.; May v.
26 Enomoto, 633 F.2d 164, 167 (9th Cir. 1980); Duffy, 588 F.2d at 743. Furthermore, vague and
27 conclusory allegations of official participation in civil rights violations are not sufficient. Ivey,
28 673 F.2d at 268.

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 requirement exists
4 because, as a general rule, an amended complaint supersedes the original complaint. See Loux v.
5 Rhay, 375 F.2d 55, 57 (9th Cir. 1967). Once plaintiff files an amended complaint, the original
6 pleading no longer serves any function in the case. Therefore, in an amended complaint, as in an
7 original complaint, each claim and the involvement of each defendant must be sufficiently
8 alleged.

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


- 10 1. Plaintiff's request for leave to proceed in forma pauperis is granted.
- 11 2. Plaintiff's complaint is dismissed.
- 12 3. Within thirty days from the date of this order, plaintiff shall complete the attached

13 Notice of Amendment and submit the following documents to the court:

- 14 a. The completed Notice of Amendment; and
- 15 b. An original and one copy of the Amended Complaint.

16 Plaintiff's amended complaint shall comply with the requirements of the Civil Rights Act, the
17 Federal Rules of Civil Procedure, and the Local Rules of Practice. The amended complaint must
18 also bear the docket number assigned to this case and must be labeled "Amended Complaint."
19 Failure to file an amended complaint in accordance with this order may result in the dismissal of
20 this action.

21 Dated: March 12, 2015

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23 _____
24 KENDALL J. NEWMAN
25 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: _____ Amended Complaint

Plaintiff