

1 The court has reviewed plaintiff's amended complaint (ECF No. 12) pursuant to § 1915A
2 and concludes that it must be dismissed without further leave to amend. It alleges that plaintiff
3 was falsely imprisoned for thirty-three days because he was not informed that his parole hold had
4 been dropped. It also alleges that during plaintiff's confinement, he was denied equal protection,
5 adequate medical care, religious rights, and the right to file grievances without retaliation. The
6 amended complaint names Jail Commander Jones, Sheriff Growden, Lassen County Adult
7 Detention Facility, the Lassen County Sheriff's Department, and Lassen County as defendants.
8 As discussed below, the amended complaint must be dismissed because it fails to plead a proper
9 claim for relief against Lassen County, the Detention Facility, and the Sheriff's Department, and
10 otherwise fails to correct the deficiencies identified by the court in its original screening order.

11 First, the complaint fails to plead a proper claim for relief against Lassen County, the
12 Detention Facility, and the Sheriff's Department because it does not allege that plaintiff was
13 injured as a result of employees acting pursuant to any policy or custom of Lassen County. A
14 municipal entity or its departments is liable under section 1983 only if plaintiff shows that his
15 constitutional injury was caused by employees acting pursuant to the municipality's policy or
16 custom. *Mt. Healthy City Sch. Dist. Bd. of Ed. v. Doyle*, 429 U.S. 274, 280 (1977); *Monell v. New*
17 *York City Dep't of Soc. Servs.*, 436 U.S. 658, 691 (1978); *Villegas v. Gilroy Garlic Festival Ass'n*,
18 541 F.3d 950, 964 (9th Cir. 2008). Moreover, local government entities may not be held
19 vicariously liable under section 1983 for the unconstitutional acts of its employees under a theory
20 of respondeat superior. *See Board of Cty. Comm'rs. v. Brown*, 520 U.S. 397, 403 (1997). Here,
21 the amended complaint alleges that Jones and Growden were responsible for executing and
22 enacting "policy," but does not identify any particular policy; nor does it allege if or how plaintiff
23 was injured as a result of an employee acting pursuant to any policy. Thus, the amended
24 complaint fails to state a claim of municipal liability.

25 Second, the complaint fails to correct the deficiencies identified by the court in its original
26 screening order. The original screening order informed plaintiff of the standards governing
27 constitutional claims based on inadequate medical care, religious discrimination, and retaliation.
28 ECF No. 9 at 4-6. It also informed plaintiff of the following:

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2 To state a claim under 42 U.S.C. § 1983, plaintiff must allege two essential
3 elements: (1) that a right secured by the Constitution or laws of the United States
4 was violated, and (2) that the alleged violation was committed by a person acting
5 under the color of state law. *West v. Atkins*, 487 U.S. 42, 48 (1988).

6 “The Constitution permits states to deprive a person of liberty as long as
7 the person first receives due process. The fundamental requirement of due process
8 is the opportunity to be heard at a meaningful time and in a meaningful manner.”
9 *Stein v. Ryan*, 662 F.3d 1114, 1119 (9th Cir. 2011) (internal quotations and
10 citations omitted). “[A]n individual has a liberty interest in being free from
11 incarceration absent a criminal conviction.” *Lee v. City of Los Angeles*, 250 F.3d
12 668, 683 (9th Cir. 2001). “Thus, the loss of liberty caused by an individual’s
13 mistaken incarceration after the lapse of a certain amount of time gives rise to a
14 claim under the Due Process Clause of the Fourteenth Amendment.” *Id.* Such a
15 claim may arise when the defendants knew or should have known the detainee was
16 entitled to release and (1) the circumstances indicated to the defendants that further
17 investigation was warranted, or (2) the defendants denied the detainee access to the
18 courts for an extended period of time. *Id.*; *Rivera v. Cty. of Los Angeles*, 745 F.3d
19 384, 391 (9th Cir. 2014). And “[s]ince imprisonment is punitive, officials who
20 detain a person may violate that person’s rights under the Eighth Amendment if
21 they act with deliberate indifference to the prisoner’s liberty interest.” *Id.* at 1118.

22 Plaintiff does not plead any facts showing that any defendant knew or
23 should have known that plaintiff should have been released from custody. He also
24 fails to plead facts showing circumstances that should have prompted any
25 defendant to investigate plaintiff’s custody status, or showing that plaintiff was
26 denied access to the courts for an extended period of time.

27 An individual defendant is not liable on a civil rights claim unless the facts
28 establish the defendant’s personal involvement in the constitutional deprivation or
a causal connection between the defendant’s wrongful conduct and the alleged
constitutional deprivation. *See Hansen v. Black*, 885 F.2d 642, 646 (9th Cir. 1989);
Johnson v. Duffy, 588 F.2d 740, 743-44 (9th Cir. 1978). That is, plaintiff may not
sue any official on the theory that the official is liable for the unconstitutional
conduct of his or her subordinates. *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009). He
must identify the particular person or persons who violated his rights. He must also
plead facts showing how that particular person was involved in the alleged
violation.

ECF No. 9 at 3-4.

Like the original complaint, the amended complaint does not adequately link any
defendant to plaintiff’s federal claims for relief or demonstrate that plaintiff was
unconstitutionally detained. The amended complaint names Jones and Growden as defendants

1 solely because they are supervisors who allegedly enact and execute policy for Lassen County.
2 ECF No. 12 at 1, 2-3. There are no factual allegations showing how either one of them was
3 personally involved in violating plaintiff's rights. Moreover, the amended complaint once again
4 fails to plead any facts showing that either defendant knew or should have known that plaintiff
5 should have been released from custody. It also fails to plead facts showing circumstances that
6 should have prompted any defendant to investigate plaintiff's custody status, or showing that
7 plaintiff was denied access to the courts for an extended period of time. For these reasons, the
8 amended complaint fails to state a claim upon which relief could be granted.

9 Despite notice of the complaint's deficiencies and an opportunity to amend, plaintiff is
10 unable to state a cognizable claim for relief. Therefore, this action should be dismissed, without
11 further leave to amend, for failure to state a claim upon which relief could be granted. *See Lopez*
12 *v. Smith*, 203 F.3d 1122, 1129 (9th Cir. 2000) ("Under Ninth Circuit case law, district courts are
13 only required to grant leave to amend if a complaint can possibly be saved. Courts are not
14 required to grant leave to amend if a complaint lacks merit entirely."); *see also Doe v. United*
15 *States*, 58 F.3d 494, 497 (9th Cir. 1995) ("[A] district court should grant leave to amend even if
16 no request to amend the pleading was made, unless it determines that the pleading could not be
17 cured by the allegation of other facts.").

18 Accordingly, IT IS HEREBY ORDERED that the amended complaint (ECF No. 12) is
19 dismissed for failure to state a claim upon which relief may be granted and the Clerk is directed to
20 close the case.

21 DATED: May 4, 2017.

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23 EDMUND F. BRENNAN
24 UNITED STATES MAGISTRATE JUDGE
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