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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID W. WILSON,
Plaintiff,
v.
CALIFORNIA MEDICAL FACILITY, et
al.,
Defendants.

No. 2:16-CV-1547-MCE-DMC-P

FINDINGS AND RECOMMENDATIONS

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the Court is Plaintiff’s first amended complaint (ECF No. 14). Plaintiff alleges defendants violated his Eighth Amendment rights and rights under the Americans with Disabilities Act (ADA) by intentionally maintaining “freezing cold conditions” in the prison and violated his First Amendment rights by retaliating against him for filing complaints.

The court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. See 28 U.S.C. § 1915A(a). The court must dismiss a complaint or portion thereof if it: (1) is frivolous or malicious; (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief from a defendant who is immune from such relief. See 28 U.S.C. § 1915A(b)(1), (2). Moreover, the Federal Rules of Civil Procedure require that complaints contain a “. . . short and plain

1 statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). This
2 means that claims must be stated simply, concisely, and directly. See McHenry v. Renne, 84 F.3d
3 1172, 1177 (9th Cir. 1996) (referring to Fed. R. Civ. P. 8(e)(1)). These rules are satisfied if the
4 complaint gives the defendant fair notice of the plaintiff’s claim and the grounds upon which it
5 rests. See Kimes v. Stone, 84 F.3d 1121, 1129 (9th Cir. 1996). Because plaintiff must allege
6 with at least some degree of particularity overt acts by specific defendants which support the
7 claims, vague and conclusory allegations fail to satisfy this standard. Additionally, it is
8 impossible for the court to conduct the screening required by law when the allegations are vague
9 and conclusory.

10 In this case, plaintiff names as defendants the California Medical Facility, a state
11 prison, as well as the California Department of Corrections [and Rehabilitation]. The Eleventh
12 Amendment prohibits federal courts from hearing suits brought against a state both by its own
13 citizens, as well as by citizens of other states. See Brooks v. Sulphur Springs Valley Elec. Coop.,
14 951 F.2d 1050, 1053 (9th Cir. 1991). This prohibition extends to suits against states themselves,
15 and to suits against state agencies. See Lucas v. Dep’t of Corr., 66 F.3d 245, 248 (9th Cir. 1995)
16 (per curiam); Taylor v. List, 880 F.2d 1040, 1045 (9th Cir. 1989). A state’s agency responsible
17 for incarceration and correction of prisoners is a state agency for purposes of the Eleventh
18 Amendment. See Alabama v. Pugh, 438 U.S. 781, 782 (1978) (per curiam); Hale v. Arizona, 993
19 F.2d 1387, 1398-99 (9th Cir. 1993) (en banc). Both the California Medical Facility and the
20 California Department of Correctios and Rehabilitation are immune under the Eleventh
21 Amendment and must be dismissed.¹

22 Because it does not appear possible that the deficiencies identified herein can be
23 cured by amending the complaint, plaintiff is not entitled to leave to amend prior to dismissal of
24 the entire action. See Lopez v. Smith, 203 F.3d 1122, 1126, 1131 (9th Cir. 2000) (en banc).

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28 ¹ By separate order issued herewith, the court finds service appropriate for the individually named defendants.

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Based on the foregoing, the undersigned recommends that California Medical Facility and California Department of Corrections and Rehabilitation be dismissed as immune defendants.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days after being served with these findings and recommendations, any party may file written objections with the court. Responses to objections shall be filed within 14 days after service of objections. Failure to file objections within the specified time may waive the right to appeal. See Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

Dated: June 28, 2019



DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE