

1 for a violation of the Eighth Amendment. In all other respects, the complaint fails to state a claim
2 upon which relief can be granted.

3 As for claims arising under California law, plaintiff has not pled compliance with the
4 California Government Claims Act. See Cal. Gov Code § 945.4; Briggs v. Lawrence, 230 Cal.
5 App. 3d 605, 612-13 (6th Dist. 1991). Plaintiff's claims concern the failure to prescribe
6 narcotics. Defendant Baliton, a registered nurse, cannot prescribe narcotics and there are no facts
7 suggesting she denied plaintiff narcotics. Plaintiff's allegations of denial of adequate medical
8 care do not state claims under the either Title II of Americans with Disabilities Act or section 504
9 of the Rehabilitation Act as these laws prohibit discrimination because of a disability, not
10 inadequate medical treatment for the disability. See Simmons v. Navajo Cnty. AZ, 609 F.3d
11 1011, 1022 (9th Cir. 2010) (ADA). Further, plaintiff does not allege he was denied any service,
12 program or activity because he has not been given narcotics.

13 Plaintiff shall complete service of process with respect to defendant Lewis in accordance
14 with Federal Rule of Civil Procedure 4 within sixty days from the date of this order. Plaintiff
15 shall serve a copy of this order on defendant Lewis together with a summons, a copy of the
16 complaint and the copy of the form "Consent to Proceed Before United States Magistrate Judge"

17 The parties are informed that they may, if all consent, have this case tried by a United
18 States Magistrate Judge while preserving their right to appeal to the Circuit Court of Appeals. An
19 appropriate form for consent to trial by a magistrate judge is attached. Any party choosing to
20 consent may complete the form and return it to the clerk of this court.

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

22 1. The Clerk of the Court is directed to issue and send plaintiff a summons for defendant
23 Lewis. The Clerk shall also send plaintiff the form "Consent to Proceed Before United States
24 Magistrate Judge" with this order.

25 2. Plaintiff shall complete service of process on the defendant Lewis within sixty days.
26 Plaintiff shall serve a copy of this order and a copy of the form "Consent to Proceed Before
27 United States Magistrate Judge" on defendant Lewis at the time the summons and complaint are
28 served.

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3. Defendant Lewis shall reply to the complaint within the time provided in Fed. R. Civ.

P. 12(a).

Dated: April 3, 2017



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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