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

TODD ROBBEN,

No. 2:16-cv-2884-JAM-CMK-P

Plaintiff,

vs.

ORDER

CALAVERAS COUNTY SUPERIOR
COURT, et. al.,

Defendants.

_____ /

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 complaint (Doc. 1). Plaintiff has also filed a motion to stay (Doc. 14).

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 is also required to screen complaints brought by litigants who have been granted leave to proceed in forma pauperis. See 28 U.S.C. § 1915(e)(2). Under these screening provisions, 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

1 from a defendant who is immune from such relief. See 28 U.S.C. § 1915A(b)(1), (2). Moreover,
2 the Federal Rules of Civil Procedure require that complaints contain a “short and plain statement
3 of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). This means
4 that claims must be stated simply, concisely, and directly. See McHenry v. Renne, 84 F.3d 1172,
5 1177 (9th Cir. 1996) (referring to Fed. R. Civ. P. 8(e)(1)). These rules are satisfied if the
6 complaint gives the defendant fair notice of the plaintiff’s claim and the grounds upon which it
7 rests. See Kimes v. Stone, 84 F.3d 1121, 1129 (9th Cir. 1996). Because plaintiff must allege
8 with at least some degree of particularity overt acts by specific defendants which support the
9 claims, vague and conclusory allegations fail to satisfy this standard. Additionally, it is
10 impossible for the court to conduct the screening required by law when the allegations are vague
11 and conclusory.

12 I. PLAINTIFF’S ALLEGATIONS

13 Plaintiff’s complaint is vague and difficult to interpret. He brings this action
14 against the Calaveras County Superior Court, Grant V. Barret (Calaveras County Superior Court
15 Judge), California Attorney General, and Andrea R. Austin (Deputy Attorney General). Plaintiff
16 is complaining about the filings in a Calaveras County case, and the possible use of a fax filing
17 agency. He is claiming, inter alia, fraud, a violation of his First and Fourteenth Amendment
18 rights, and denial of due process.

19 II. DISCUSSION

20 Plaintiff’s complaint suffers from a number of defects. In order to state a claim
21 under 42 U.S.C. § 1983, the plaintiff must allege an actual connection or link between the actions
22 of the named defendants and the alleged deprivations. See Monell v. Dep’t of Social Servs., 436
23 U.S. 658 (1978); Rizzo v. Goode, 423 U.S. 362 (1976). “A person ‘subjects’ another to the
24 deprivation of a constitutional right, within the meaning of § 1983, if he does an affirmative act,
25 participates in another’s affirmative acts, or omits to perform an act which he is legally required
26 to do that causes the deprivation of which complaint is made.” Johnson v. Duffy, 588 F.2d 740,

1 743 (9th Cir. 1978). Vague and conclusory allegations concerning the involvement of official
2 personnel in civil rights violations are not sufficient. See Ivey v. Board of Regents, 673 F.2d
3 266, 268 (9th Cir. 1982). Rather, the plaintiff must set forth specific facts as to each individual
4 defendant’s causal role in the alleged constitutional deprivation. See Leer v. Murphy, 844 F.2d
5 628, 634 (9th Cir. 1988).

6 A claim is legally frivolous when it lacks an arguable basis either in law or in fact.
7 See Neitzke v. Williams, 490 U.S. 319, 325 (1989); Franklin v. Murphy, 745 F.2d 1221,
8 1227-28 (9th Cir. 1984). The court may, therefore, dismiss a claim as frivolous where it is based
9 on an indisputably meritless legal theory or where the factual contentions are clearly baseless.
10 Neitzke, 490 U.S. at 327. The critical inquiry is whether a constitutional claim, however
11 inartfully pleaded, has an arguable legal and factual basis. See Jackson v. Arizona, 885 F.2d 639,
12 640 (9th Cir. 1989); Franklin, 745 F.2d at 1227.

13 In order to avoid dismissal for failure to state a claim a complaint must contain
14 more than “naked assertions,” “labels and conclusions” or “a formulaic recitation of the elements
15 of a cause of action.” Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-57 (2007). In other
16 words, “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory
17 statements do not suffice.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). Furthermore, a claim
18 upon which the court can grant relief has facial plausibility. See Twombly, 550 U.S. at 570. “A
19 claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw
20 the reasonable inference that the defendant is liable for the misconduct alleged.” Iqbal, 556 U.S.
21 at 678. When considering whether a complaint states a claim upon which relief can be granted,
22 the court must accept the allegations as true, Erickson v. Pardus, 127 S. Ct. 2197, 2200 (2007),
23 and construe the complaint in the light most favorable to the plaintiff, see Scheuer v. Rhodes,
24 416 U.S. 232, 236 (1974).

25 The court finds the allegations in plaintiff’s complaint so vague and conclusory
26 that it fails to state a claim upon which relief can be granted. Although the Federal Rules of Civil

1 Procedure adopt a flexible pleading policy, a complaint must give fair notice and state the
2 elements of the claim plainly and succinctly. See Jones v. Community Redev. Agency, 733 F.2d
3 646, 649 (9th Cir. 1984). Plaintiff must allege with at least some degree of particularity overt
4 acts which defendants engaged in that support plaintiff's claim. See id. Plaintiff fails to make the
5 connection between the acts alleged and who the actor was. Plaintiff's complaint must be
6 dismissed for failure to state a claim.

7 In addition, plaintiff brings this action against immune defendants. Judges are
8 absolutely immune from damage actions for judicial acts taken within the jurisdiction of their
9 courts. See Schucker v. Rockwood, 846 F.2d 1202, 1204 (9th Cir. 1988) (per curiam). This
10 immunity is lost only when the judge acts in the clear absence of all jurisdiction or performs an
11 act that is not judicial in nature. See id. Judges retain their immunity even when they are
12 accused of acting maliciously or corruptly, see Mireles v. Waco, 502 U.S. 9, 11 (1991) (per
13 curiam); Stump v. Sparkman, 435 U.S. 349, 356-57 (1978), and when they are accused of acting
14 in error, see Meek v. County of Riverside, 183 F.3d 962, 965 (9th Cir. 1999). This immunity
15 extends to the actions of court personnel when they act as "an integral part of the judicial
16 process." See Mullis v. U.S. Bankruptcy Court, 828 F.2d 1385, 1390 (9th Cir. 1987). To the
17 extent that plaintiff seeks injunctive relief, "in any action brought against a judicial officer for an
18 act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted
19 unless a declaratory decree was violated or declaratory relief was unavailable." 42 U.S.C. § 983.
20 Plaintiff has not allege any such circumstances.

21 Similarly, prosecutorial immunity protects eligible government officials when
22 they are acting pursuant to their official role as advocate for the state. See Imbler v. Pachtman,
23 424 U.S. 409, 430 (1976). This immunity extends to actions during both the pre-trial and post-
24 trial phases of a case. See Demery v. Kupperman, 735 F.2d 1139, 1144 (9th Cir. 1984). State
25 prosecutors are entitled to absolute prosecutorial immunity for acts taken in their official
26 capacity. See Kalina v. Fletcher, 522 U.S. 118, 123-25 (1997).

1 It is not clear as to what happened that plaintiff is complaining about, but it
2 appears that what occurred happened during some proceedings in the Calaveras County Court.
3 Thus, it would appear that the two individuals named as defendants would be immune from such
4 an action.

5 The only other defendants named are the Calaveras County Superior Court and the
6 California Attorney General. However, it appears that these two entities are simply identifying
7 who the two individuals are, and where they are employed. To the extent plaintiff is actually
8 attempting to name these entities as defendants, the Eleventh Amendment prohibits federal
9 courts from hearing suits brought against a state both by its own citizens, as well as by citizens of
10 other states. See Brooks v. Sulphur Springs Valley Elec. Coop., 951 F.2d 1050, 1053 (9th Cir.
11 1991). This prohibition extends to suits against states themselves, and to suits against state
12 agencies. See Lucas v. Dep't of Corr., 66 F.3d 245, 248 (9th Cir. 1995) (per curiam); Taylor v.
13 List, 880 F.2d 1040, 1045 (9th Cir. 1989). A state's agency responsible for incarceration and
14 correction of prisoners is a state agency for purposes of the Eleventh Amendment. See Alabama
15 v. Pugh, 438 U.S. 781, 782 (1978) (per curiam); Hale v. Arizona, 993 F.2d 1387, 1398-99 (9th
16 cir. 1993) (en banc). "As an arm of the State of California, the County Superior Court is immune
17 from suit under the Eleventh Amendment." Lofthus v. Long Beach Veterans Hosp., 214
18 F.Supp.3d 908, 912 (CACD 2016) (citing Greater Los Angeles Council on Deafness v. Zolin,
19 812 F.2d 1103, 1110 (9th Cir. 1987) ("[A] suit against the Superior Court is a suit against the
20 state, barred by the Eleventh Amendment")); see also Krainski v. State, 616 F.3d 963, 967 (9th
21 Cir. 2010).

22 As it appears the only defendants named in the complaint are immune, and the
23 complaint lacks sufficient factual allegations for the court to determine whether plaintiff's claims
24 are frivolous, the complaint will be dismissed. Plaintiff will be provided an opportunity to file an
25 amended complaint in order to cure the deficiencies therein. Plaintiff is cautioned that any
26 amended complaint filed must meet the pleading requirements set forth herein.

1 III. MOTION TO STAY

2 Plaintiff has also filed motion to stay due to difficulties he was experiencing while
3 housed at the El Dorado County Jail. Plaintiff has since been transferred to the California
4 Department of Corrections and Rehabilitation. His request therefore will be denied.

5 IV. CONCLUSION

6 Because it is possible that the deficiencies identified in this order may be cured by
7 amending the complaint, plaintiff is entitled to leave to amend prior to dismissal of the entire
8 action. See Lopez v. Smith, 203 F.3d 1122, 1126, 1131 (9th Cir. 2000) (en banc). Plaintiff is
9 informed that, as a general rule, an amended complaint supersedes the original complaint. See
10 Ferdik v. Bonzelet, 963 F.2d 1258, 1262 (9th Cir. 1992). Thus, following dismissal with leave to
11 amend, all claims alleged in the original complaint which are not alleged in the amended
12 complaint are waived. See King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987). Therefore, if
13 plaintiff amends the complaint, the court cannot refer to the prior pleading in order to make
14 plaintiff's amended complaint complete. See Local Rule 220. An amended complaint must be
15 complete in itself without reference to any prior pleading. See id.

16 If plaintiff chooses to amend the complaint, plaintiff must demonstrate how the
17 conditions complained of have resulted in a deprivation of plaintiff's constitutional rights. See
18 Ellis v. Cassidy, 625 F.2d 227 (9th Cir. 1980). The complaint must allege in specific terms how
19 each named defendant is involved, and must set forth some affirmative link or connection
20 between each defendant's actions and the claimed deprivation. See May v. Enomoto, 633 F.2d
21 164, 167 (9th Cir. 1980); Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978). As the only
22 defendants named in the complaint are entitled to immunity, plaintiff must also show how that
23 immunity has been lost or that some exception applies.

24 Finally, plaintiff is warned that failure to file an amended complaint within the
25 time provided in this order may be grounds for dismissal of this action. See Ferdik, 963 F.2d at
26 1260-61; see also Local Rule 110. Plaintiff is also warned that a complaint which fails to comply

1 with Rule 8 may, in the court's discretion, be dismissed with prejudice pursuant to Rule 41(b).

2 See Nevijel v. North Coast Life Ins. Co., 651 F.2d 671, 673 (9th Cir. 1981).

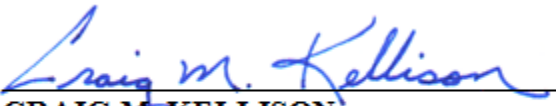
3 Accordingly, IT IS HEREBY ORDERED that:

4 1. Plaintiff's complaint is dismissed with leave to amend;

5 2. Plaintiff shall file an amended complaint within 30 days of the date of
6 service of this order; and

7 3. Plaintiff's motion to stay (Doc. 14) is denied.

8 Dated: August 1, 2018


CRAIG M. KELLISON
UNITED STATES MAGISTRATE JUDGE

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