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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT MCINNIS,
Plaintiff,
v.
VAUGHN, et al.,
Defendants.

No. 2:17-cv-1318 CKD P

ORDER

Plaintiff is a Yolo County Jail prisoner proceeding pro se. 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) and plaintiff has consented to have all matters in this action before a United States Magistrate Judge. See 28 U.S.C. § 636(c).

Plaintiff has 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.

Plaintiff is required to pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. §§ 1914(a), 1915(b)(1). By separate order, the court will direct the appropriate agency to collect twenty percent of the preceding month's income credited to plaintiff's prison trust account and forward it to the Clerk of the Court each time the amount in plaintiff's account exceeds \$10.00, until the filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

1 The court is required to screen complaints brought by prisoners seeking relief against a
2 governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The
3 court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally
4 “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek
5 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1),(2).

6 The court has conducted the required screening and finds that plaintiff’s complaint states a
7 claim against defendant Herrera upon which relief could be granted arising under the Eighth
8 Amendment for excessive force as alleged by plaintiff in claim II. In all other respects, plaintiff’s
9 complaint fails to state claims upon which relief can be granted.

10 At this point, plaintiff has two options: 1) he may either proceed only on the claim
11 identified above; or 2) attempt to cure the deficiencies with respect to other claims in an amended
12 complaint.

13 If plaintiff chooses to amend, plaintiff is informed as follows:

14 1. His original complaint is, at times, impossible to understand because it is
15 indecipherable. In an amended complaint, plaintiff should take care to write legibly and in a
16 manner which can be understood.

17 2. Pursuant to Federal Rule of Civil Procedure 20(a)(2), plaintiff may join in one action
18 as many claims as he has against one defendant. Other defendants can be joined to claims, but
19 claims which are only against other defendants generally must be brought in a separate action.

20 3. In order to state a claim for damages, plaintiff must allege facts indicating a causal
21 connection between the actions of a defendant and the injury sustained by plaintiff. See Barren v.
22 Harrington, 152 F.3d 1193, 1194-95 (9th Cir. 1998). There can be no liability under 42 U.S.C. §
23 1983 unless there is some affirmative link or connection between a defendant’s actions and the
24 claimed deprivation. Rizzo v. Goode, 423 U.S. 362 (1976). Furthermore, vague and conclusory
25 allegations of official participation in civil rights violations are not sufficient. Ivey v. Board of
26 Regents, 673 F.2d 266, 268 (9th Cir. 1982).

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1 4. Section 1997(e)(a) of Title 42 of the United States Code provides that “[n]o action
2 shall be brought with respect to prison conditions under section 1983 of this title, . . . until such
3 administrative remedies as are available are exhausted.”

4 5. Denial or delay of medical care for a prisoner’s serious medical needs may constitute a
5 violation of the prisoner’s Eighth Amendment rights. Estelle v. Gamble, 429 U.S. 97, 104-05
6 (1976). An individual is liable for such a violation only when injury occurs as a result of the
7 individual’s deliberate indifference to serious medical needs. Id.

8 6. Prison officials generally cannot retaliate against inmates for exercising First
9 Amendment rights. Rizzo v. Dawson, 778 F.2d 527, 531 (9th Cir. 1985). Because a prisoner’s
10 First Amendment rights are necessarily curtailed, however, a successful retaliation claim requires
11 a finding that “the prison authorities’ retaliatory action did not advance legitimate goals of the
12 correctional institution or was not tailored narrowly enough to achieve such goals.” Id. at 532.
13 The plaintiff bears the burden of pleading and proving the absence of legitimate correctional
14 goals for the conduct of which he complains. Pratt v. Rowland, 65 F.3d 802, 806 (9th Cir. 1995).

15 Plaintiff is informed that the court cannot refer to a prior pleading in order to make an
16 amended pleading complete. Local Rule 220 requires that an amended complaint be complete in
17 itself without reference to any prior pleading. This is because, as a general rule, an amended
18 complaint supersedes the original complaint. See Loux v. Rhay, 375 F.2d 55, 57 (9th Cir. 1967).
19 Once plaintiff files an amended complaint, the original pleading no longer serves any function in
20 the case. Therefore, in an amended complaint, as in an original complaint, each claim and the
21 involvement of each defendant must be sufficiently alleged.

22 Finally, the court notes that plaintiff has asked to add another inmate as a plaintiff to this
23 case. That request will be denied as an action brought by multiple inmate plaintiffs proceeding
24 pro se presents procedural problems that cause delay and confusion. Delay often arises from the
25 frequent transfer of inmates to other facilities or institutions, the changes in address that occur

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1 when inmates are released to parole, and the difficulties faced by inmates who attempt to
2 communicate with each other and with un-incarcerated individuals.¹

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

4 1. Plaintiff's request for leave to proceed in forma pauperis (ECF No. 6) is granted.

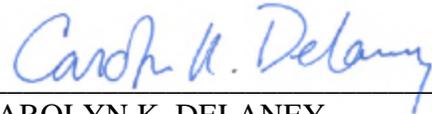
5 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. Plaintiff
6 is assessed an initial partial filing fee in accordance with the provisions of 28 U.S.C.

7 § 1915(b)(1). All fees shall be collected and paid in accordance with this court's order to the
8 Yolo County Sheriff filed concurrently herewith.

9 3. Plaintiff is granted thirty days to file an amended complaint that complies with the
10 terms of this order. If plaintiff does not file an amended complaint within 30 days, this action
11 will proceed on plaintiff's claim arising under the Eighth Amendment against defendant Herrera.

12 4. Plaintiff's request that the court add Damien Pace as a plaintiff in this action (ECF No.
13 7) is denied.

14 Dated: November 16, 2017



15 CAROLYN K. DELANEY
16 UNITED STATES MAGISTRATE JUDGE

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28 ¹ The court has broad discretion under Federal Rule of Civil Procedure 21 to add and drop parties.