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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DANIEL LARSON,
Plaintiff,
v.
BUTTE COUNTY SHERIFF’S
MEDICAL STAFF, ET AL.,
Defendants.

No. 2:17-cv-2337 KJN P

ORDER

Plaintiff is a former county jail inmate, proceeding without counsel. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983, and is proceeding in forma pauperis. This proceeding was referred to this court pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 302. Plaintiff’s amended complaint is now before the court.

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

A claim is legally frivolous when it lacks an arguable basis either in law or in fact. Neitzke v. Williams, 490 U.S. 319, 325 (1989); Franklin v. Murphy, 745 F.2d 1221, 1227-28 (9th Cir. 1984). The court may, therefore, dismiss a claim as frivolous where it is based on an

1 indisputably meritless legal theory or where the factual contentions are clearly baseless. Neitzke,
2 490 U.S. at 327. The critical inquiry is whether a constitutional claim, however inartfully
3 pleaded, has an arguable legal and factual basis. See Jackson v. Arizona, 885 F.2d 639, 640 (9th
4 Cir. 1989); Franklin, 745 F.2d at 1227.

5 A complaint, or portion thereof, should only be dismissed for failure to state a claim upon
6 which relief may be granted if it appears beyond doubt that plaintiff can prove no set of facts in
7 support of the claim or claims that would entitle him to relief. Hishon v. King & Spalding, 467
8 U.S. 69, 73 (1984) (citing Conley v. Gibson, 355 U.S. 41, 45-46 (1957)); Palmer v. Roosevelt
9 Lake Log Owners Ass'n, 651 F.2d 1289, 1294 (9th Cir. 1981). In reviewing a complaint under
10 this standard, the court must accept as true the allegations of the complaint in question, Hosp.
11 Bldg. Co. v. Rex Hosp. Trustees, 425 U.S. 738, 740 (1976), construe the pleading in the light
12 most favorable to the plaintiff, and resolve all doubts in the plaintiff's favor, Jenkins v.
13 McKeithen, 395 U.S. 411, 421 (1969).

14 Discussion

15 The court has reviewed the amended complaint pursuant to § 1915A and finds it must be
16 dismissed with leave to amend because the claims asserted in the amended complaint are not
17 properly joined under Federal Rule of Civil Procedure 20(a) concerning joinder of claims and
18 defendants. Rule 20(a) provides that all persons may be joined in one action as defendants if
19 “any right to relief is asserted against them jointly, severally, or in the alternative with respect to
20 or arising out of the same transaction, occurrence, or series of transactions or occurrences” and
21 “any question of law or fact common to all defendants will arise in the action.” Fed. R. Civ. P.
22 20(a)(2). This action proceeds on plaintiff’s claims that certain medical staff members at the
23 Butte County Jail were deliberately indifferent to plaintiff’s serious medical needs regarding care
24 and treatment for his shoulder. Plaintiff’s amended complaint attempts to add wholly unrelated
25 claims; for example, he alleges that a tower guard failed to protect plaintiff. Plaintiff is advised
26 that all claims unrelated to the medical care of his shoulder injury must be raised in a separate
27 action, unless the unrelated incident is raised against a defendant involved in the care of
28 plaintiff’s shoulder.

1 Plaintiff is advised of the following governing standards for such medical claims:

2 “Inmates who sue [jail] officials for injuries suffered while in custody may do so under the
3 Eighth Amendment’s Cruel and Unusual Punishment Clause or, if not yet convicted, under the
4 Fourteenth Amendment’s Due Process Clause.” Castro v. County of Los Angeles, 833 F.3d
5 1060, 1067-68 (9th Cir. 2016), cert. denied sub nom. Los Angeles Cty., Cal. v. Castro, 137 S. Ct.
6 831, 832 (2017). The Ninth Circuit cited Bell v. Wolfish, 441 U.S. 520, 535 (1979), which held
7 that, “under the Due Process Clause, a detainee may not be punished prior to conviction.” Castro,
8 833 F.3d at 1068. “Under both clauses, the plaintiff must show that the prison [or jail] officials
9 acted with ‘deliberate indifference.’” Id.

10 The Ninth Circuit has held that medical claims for pretrial detainees against individual
11 defendants are elevated under the Fourteenth Amendment by an objective, not subjective,
12 deliberate indifference standard. Gordon v. County of Orange, 888 F.3d 1118, 1124-25 (9th Cir.
13 April 30, 2018). The elements of a pretrial detainee’s medical care under the Fourteenth
14 Amendment are: (1) the defendant made an intentional decision with respect to the conditions
15 under which the plaintiff was confined; (2) those conditions put the plaintiff at substantial risk of
16 suffering serious harm; (3) the defendant did not take reasonable available measures to abate that
17 risk, even though a reasonable official in the circumstances would have appreciated the high
18 degree of risk involved – making the consequences of the defendant’s conduct obvious; and (4)
19 by not taking such measures, the defendant caused plaintiff’s injuries. Id. at 1125. Plaintiff’s
20 claims are governed by a two-part analysis that requires plaintiff to identify the intentional
21 decision or conduct which put plaintiff at substantial risk of serious harm, and evaluates each
22 defendant’s response to that harm through an objective, rather than subjective, lens.

23 The “‘mere lack of due care by a state official’ does not deprive an individual of life,
24 liberty, or property under the Fourteenth Amendment.” Castro, 833 F.3d at 1071 (citing Daniels
25 v. Williams, 474 U.S. 327, 330-31 (1986)). “Thus, the plaintiff must ‘prove more than negligence
26 but less than subjective intent – something akin to reckless disregard.’” Gordon, 888 F.3d at 1125
27 (citing Daniels, 474 U.S. at 330-31).

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1 V. Leave to Amend

2 Therefore, plaintiff's amended complaint is dismissed. The court, however, grants leave
3 to file a second amended complaint that raises only his medical claims concerning the treatment
4 of his shoulder. Plaintiff must raise his other claims in separate civil rights actions.

5 If plaintiff chooses to file a second amended complaint, plaintiff must demonstrate how
6 the conditions complained of have resulted in a deprivation of plaintiff's federal constitutional or
7 statutory rights. See Ellis v. Cassidy, 625 F.2d 227 (9th Cir. 1980). Also, the second amended
8 complaint must allege in specific terms how each named defendant is involved. There can be no
9 liability under 42 U.S.C. § 1983 unless there is some affirmative link or connection between a
10 defendant's actions and the claimed deprivation. Rizzo v. Goode, 423 U.S. 362 (1976); May v.
11 Enomoto, 633 F.2d 164, 167 (9th Cir. 1980); Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir.
12 1978). Furthermore, vague and conclusory allegations of official participation in civil rights
13 violations are not sufficient. Ivey v. Bd. of Regents, 673 F.2d 266, 268 (9th Cir. 1982).

14 Plaintiff may not change the nature of this suit by alleging new, unrelated claims.¹ See
15 Fed. R. Civ. P. 20(a)(2).

16 In addition, plaintiff is informed that the court cannot refer to a prior pleading in order to
17 make plaintiff's second amended complaint complete. Local Rule 220 requires that an amended
18 complaint be complete in itself without reference to any prior pleading. This requirement is
19 because, as a general rule, an amended complaint supersedes the original complaint. See Loux v.
20 Rhay, 375 F.2d 55, 57 (9th Cir. 1967). Once plaintiff files a second amended complaint, the
21 original pleading no longer serves any function in the case. Therefore, in a second amended

22 ¹ A plaintiff may properly assert multiple claims against a single defendant. Fed. Rule Civ. P. 18.
23 In addition, a plaintiff may join multiple defendants in one action where "any right to relief is
24 asserted against them jointly, severally, or in the alternative with respect to or arising out of the
25 same transaction, occurrence, or series of transactions and occurrences" and "any question of law
26 or fact common to all defendants will arise in the action." Fed. R. Civ. P. 20(a)(2). Unrelated
27 claims against different defendants must be pursued in separate lawsuits. See George v. Smith,
28 507 F.3d 605, 607 (7th Cir. 2007). This rule is intended "not only to prevent the sort of morass [a
multiple claim, multiple defendant] suit produce[s], but also to ensure that prisoners pay the
required filing fees -- for the Prison Litigation Reform Act limits to 3 the number of frivolous
suits or appeals that any prisoner may file without prepayment of the required fees. 28 U.S.C.
§ 1915(g)." George, 507 F.3d at 607.

1 complaint, as in an original complaint, each claim and the involvement of each defendant must be
2 sufficiently alleged.


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

4 1. Plaintiff's amended complaint is dismissed;

5 2. Plaintiff is granted thirty days from the date of service of this order to file a second
6 amended complaint that complies with the requirements of the Civil Rights Act, the Federal Rules
7 of Civil Procedure, and the Local Rules of Practice; the second amended complaint must bear the
8 docket number assigned this case and must be labeled "Second Amended Complaint"; plaintiff
9 must file an original and two copies of the second amended complaint;
10 failure to file a second amended complaint in accordance with this order will result in a
11 recommendation that this action be dismissed; and

12 3. The Clerk of the Court shall send plaintiff the form for filing a civil rights complaint by
13 a prisoner.

14 Dated: November 9, 2018

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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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