

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

JOE TAYLOR,

Plaintiff,

v.

J. LEWIS, et al.,

Defendants.

No. 2:18-CV-0149-DMC-P

ORDER

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 (ECF No. 1). Plaintiff alleges that Defendants violated his Eighth Amendment right against cruel and unusual punishment by denying him proper medical treatment, specifically by failing to provide him adequate pain management medication.

I. SCREENING REQUIREMENT AND STANDARD

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).

1 or medication of equal strength. Plaintiff Alleges that Defendant J. Ma was deliberately
2 indifferent when he failed to provide Plaintiff with Tramadol despite knowing the serious pain
3 and suffering that were affecting Plaintiff's daily activities. Plaintiff alleges M. Bobbala was
4 deliberately indifferent in denying Plaintiffs second level inmate appeal requesting the use of
5 Tramadol. Plaintiff alleges P. Sahota was deliberately indifferent in denying Plaintiff's request
6 for pain relief despite knowing the pain was "quite worse." Finally, Plaintiff alleges that all
7 members of the Pain Management Committee, Does 1-5, were deliberately indifferent in denying
8 Plaintiff additional pain medication based on subjective information that Plaintiff contends was
9 false and misleading.

11 III. ANALYSIS

12 The treatment a prisoner receives in prison and the conditions under which the
13 prisoner is confined are subject to scrutiny under the Eighth Amendment, which prohibits cruel
14 and unusual punishment. See Helling v. McKinney, 509 U.S. 25, 31 (1993); Farmer v. Brennan,
15 511 U.S. 825, 832 (1994). The Eighth Amendment "... embodies broad and idealistic concepts
16 of dignity, civilized standards, humanity, and decency." Estelle v. Gamble, 429 U.S. 97, 102
17 (1976). Conditions of confinement may, however, be harsh and restrictive. See Rhodes v.
18 Chapman, 452 U.S. 337, 347 (1981). Nonetheless, prison officials must provide prisoners with
19 "food, clothing, shelter, sanitation, medical care, and personal safety." Toussaint v. McCarthy,
20 801 F.2d 1080, 1107 (9th Cir. 1986). A prison official violates the Eighth Amendment only when
21 two requirements are met: (1) objectively, the official's act or omission must be so serious such
22 that it results in the denial of the minimal civilized measure of life's necessities; and (2)
23 subjectively, the prison official must have acted unnecessarily and wantonly for the purpose of
24 inflicting harm. See Farmer, 511 U.S. at 834. Thus, to violate the Eighth Amendment, a prison
25 official must have a "sufficiently culpable mind." See id.

26 ///

27 ///

28 ///

1 Deliberate indifference to a prisoner's serious illness or injury, or risks of serious
2 injury or illness, gives rise to a claim under the Eighth Amendment. See Estelle, 429 U.S. at 105;
3 see also Farmer, 511 U.S. at 837. This applies to physical as well as dental and mental health
4 needs. See Hoptowit v. Ray, 682 F.2d 1237, 1253 (9th Cir. 1982). An injury or illness is
5 sufficiently serious if the failure to treat a prisoner's condition could result in further significant
6 injury or the ". . . unnecessary and wanton infliction of pain." McGuckin v. Smith, 974 F.2d
7 1050, 1059 (9th Cir. 1992); see also Doty v. County of Lassen, 37 F.3d 540, 546 (9th Cir. 1994).
8 Factors indicating seriousness are: (1) whether a reasonable doctor would think that the condition
9 is worthy of comment; (2) whether the condition significantly impacts the prisoner's daily
10 activities; and (3) whether the condition is chronic and accompanied by substantial pain. See
11 Lopez v. Smith, 203 F.3d 1122, 1131-32 (9th Cir. 2000) (en banc).

12 The requirement of deliberate indifference is less stringent in medical needs cases
13 than in other Eighth Amendment contexts because the responsibility to provide inmates with
14 medical care does not generally conflict with competing penological concerns. See McGuckin,
15 974 F.2d at 1060. Thus, deference need not be given to the judgment of prison officials as to
16 decisions concerning medical needs. See Hunt v. Dental Dep't, 865 F.2d 198, 200 (9th Cir.
17 1989). The complete denial of medical attention may constitute deliberate indifference. See
18 Toussaint v. McCarthy, 801 F.2d 1080, 1111 (9th Cir. 1986). Delay in providing medical
19 treatment, or interference with medical treatment, may also constitute deliberate indifference. See
20 Lopez, 203 F.3d at 1131. Where delay is alleged, however, the prisoner must also demonstrate
21 that the delay led to further injury. See McGuckin, 974 F.2d at 1060.

22 Negligence in diagnosing or treating a medical condition does not, however, give
23 rise to a claim under the Eighth Amendment. See Estelle, 429 U.S. at 106. Moreover, a
24 difference of opinion between the prisoner and medical providers concerning the appropriate
25 course of treatment does not give rise to an Eighth Amendment claim. See Jackson v. McIntosh,
26 90 F.3d 330, 332 (9th Cir. 1996).

27 ///

28 ///

1 Plaintiff's allegations against each defendant relate to the medical determination to
2 modify Plaintiff's pain medication. These allegations are all based on Plaintiff's belief that the
3 modifications are ineffective at managing his pain despite several doctors and the Pain
4 Management Committee's determination that the modification is proper based on Plaintiff's
5 condition. This amounts to a difference of opinion between Plaintiff and the named Defendants
6 in this case. Such a difference of opinion, based on the facts alleged, does not state a claim
7 sufficient to establish a constitutional violation under the Eighth Amendment. See Jackson v.
8 McIntosh, 90 F.3d at 332. For that reason, Plaintiff's complaint cannot pass the screening stage
9 at this time. To the extent it is possible plaintiff can allege facts showing defendants were
10 deliberately indifferent with respect to plaintiff's pain, the court will provide plaintiff an
11 opportunity to amend.

12 13 **IV. AMENDING THE COMPLAINT**

14 Because it may be possible that the deficiencies identified in this order can be
15 cured by amending the complaint, plaintiff is entitled to leave to amend. See Lopez v. Smith, 203
16 F.3d 1122, 1126, 1131 (9th Cir. 2000) (en banc). Plaintiff is informed that, as a general rule, an
17 amended complaint supersedes the original complaint. See Ferdik v. Bonzelet, 963 F.2d 1258,
18 1262 (9th Cir. 1992). Therefore, if plaintiff amends the complaint, the court cannot refer to the
19 prior pleading in order to make plaintiff's amended complaint complete. See Local Rule 220. An
20 amended complaint must be complete in itself without reference to any prior pleading. See id.

21 If plaintiff chooses to amend the complaint, plaintiff must demonstrate how the
22 conditions complained of have resulted in a deprivation of plaintiff's constitutional rights. See
23 Ellis v. Cassidy, 625 F.2d 227 (9th Cir. 1980). The complaint must allege in specific terms how
24 each named defendant is involved, and must set forth some affirmative link or connection
25 between each defendant's actions and the claimed deprivation. See May v. Enomoto, 633 F.2d
26 164, 167 (9th Cir. 1980); Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978).

27 ///

28 ///

