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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN McCLINTOCK,
Plaintiff,
v.
T. COOPER, et al.,
Defendants.

No. 2: 18-cv-0560 JAM KJN P

ORDER

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff's amended complaint. (ECF No. 11.) For the reasons stated herein, plaintiff's amended complaint is dismissed with leave to amend.

Plaintiff's amended complaint does not clearly identify the defendants. While plaintiff includes a statement of his claims, it is not clear which individuals discussed in each claim are intended as defendants. For example, claim one discusses Sergeant Cooper, Wheeler, Armento, J. Cantu, L. Cantu, Warden Lizarraga, R. Barton, Joseph Talvan and Lieutenant McCloughain. It is not clear if plaintiff intends to name all of these individuals as defendants. For these reasons, the amended complaint is dismissed with leave to file a second amended complaint. The second amended complaint shall clearly list all named defendants and their involvement in each allegation against them.

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1 Plaintiff is also informed that the Civil Rights Act under which this action was filed
2 provides as follows:

3 Every person who, under color of [state law] . . . subjects, or causes
4 to be subjected, any citizen of the United States . . . to the deprivation
5 of any rights, privileges, or immunities secured by the Constitution .
6 . . shall be liable to the party injured in an action at law, suit in equity,
7 or other proper proceeding for redress.

8 42 U.S.C. § 1983. The statute requires that there be an actual connection or link between the
9 actions of the defendants and the deprivation alleged to have been suffered by plaintiff. See
10 Monell v. Department of Social Servs., 436 U.S. 658 (1978) (“Congress did not intend § 1983
11 liability to attach where . . . causation [is] absent.”); Rizzo v. Goode, 423 U.S. 362 (1976) (no
12 affirmative link between the incidents of police misconduct and the adoption of any plan or policy
13 demonstrating their authorization or approval of such misconduct). “A person ‘subjects’ another
14 to the deprivation of a constitutional right, within the meaning of § 1983, if he does an affirmative
15 act, participates in another’s affirmative acts or omits to perform an act which he is legally
16 required to do that causes the deprivation of which complaint is made.” Johnson v. Duffy, 588
17 F.2d 740, 743 (9th Cir. 1978).

18 Moreover, supervisory personnel are generally not liable under § 1983 for the actions of
19 their employees under a theory of respondeat superior and, therefore, when a named defendant
20 holds a supervisory position, the causal link between him and the claimed constitutional
21 violation must be specifically alleged. See Fayle v. Stapley, 607 F.2d 858, 862 (9th Cir. 1979)
22 (no liability where there is no allegation of personal participation); Mosher v. Saalfeld, 589 F.2d
23 438, 441 (9th Cir. 1978) (no liability where there is no evidence of personal participation), cert.
24 denied, 442 U.S. 941 (1979). Vague and conclusory allegations concerning the involvement of
25 official personnel in civil rights violations are not sufficient. See Ivey v. Board of Regents, 673
26 F.2d 266, 268 (9th Cir. 1982) (complaint devoid of specific factual allegations of personal
27 participation is insufficient).

28 Plaintiff is informed that the court cannot refer to a prior pleading in order to make
plaintiff’s second amended complaint complete. Local Rule 220 requires that an amended
complaint be complete in itself, without reference to any prior pleading.

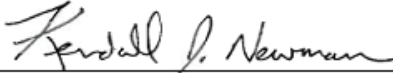
1 Plaintiff's amended complaint was not prepared on a complaint form. The undersigned
2 will direct the Clerk of the Court to send plaintiff a complaint form. Plaintiff shall prepare his
3 second amended complaint on the complaint form. The second amended complaint may be no
4 longer than fifteen pages.

5 Accordingly, IT IS HEREBY ORDERED that:

6 1. Plaintiff's amended complaint is dismissed with thirty days to file a second amended
7 complaint; failure to file a second amended complaint within that time will result in a
8 recommendation of dismissal of this action;

9 2. The Clerk of the Court is directed to send plaintiff the form for a civil rights complaint;
10 plaintiff shall prepare his second amended complaint on this form. The second amended
11 complaint may be no longer than fifteen pages.

12 Dated: March 12, 2019

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15 KENDALL J. NEWMAN
16 UNITED STATES MAGISTRATE JUDGE

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