

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

DONALD CANFIELD.

Plaintiff,

V.

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION, et al.,

Defendants.

No. 2:18-CV-1092-KJM-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 second amended complaint (ECF No. 20).

1 1172, 1177 (9th Cir. 1996) (referring to Fed. R. Civ. P. 8(e)(1)). These rules are satisfied if the
2 complaint gives the defendant fair notice of the plaintiff's claim and the grounds upon which it
3 rests. See Kimes v. Stone, 84 F.3d 1121, 1129 (9th Cir. 1996). Because plaintiff must allege
4 with at least some degree of particularity overt acts by specific defendants which support the
5 claims, vague and conclusory allegations fail to satisfy this standard. Additionally, it is
6 impossible for the court to conduct the screening required by law when the allegations are vague
7 and conclusory.

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I. PLAINTIFF'S ALLEGATIONS

10 Plaintiff Donald Canfield names the following as defendants: (1) Ralph Diaz; (2)
11 Robert Burton; (3) Lozano; (4) Narinder Saukhla; (5) S. Awatani; (6) Michael D. Fox; (7) J.
12 Lewis; (8) Joseph Bick; (9) Deepak Mehta; (10) Michael R. Riedon; (11) John M. Dowbak; (12)
13 Wieland; (13) Michelle Ditomas; (14) Andrew Sawicki; (15) Sekhon Simranjit; (16) C. Haless;
14 (17) R. Shwatain. See ECF No.20, pgs. 2-3.

15 Plaintiff alleges that in 2014 he stumbled and slipped in the shower causing his
16 ankle bone to fracture and resulting in substantial injury. See ECF No. 20, pg. 7. After this injury,
17 plaintiff was transferred to California State Prison in Vacaville, CA. From thereon, plaintiff made
18 numerous complaints about pain arising from his injury and requested medical care. See ECF No.
19 20, pg. 4. Plaintiff alleges that, despite his complaints, there was a substantial delay in treatment
20 and that such delay ultimately led to the amputation of his foot and part of his leg. See ECF No.
21 20, pgs. 4-9.

22 As to defendant Dr. Narinder Saukhla, plaintiff's primary care physician, plaintiff
23 alleges that defendant's delay in precuring him surgery resulted in the loss of his leg. See ECF
24 No. 20, pg. 4. Specifically, plaintiff alleges that Saukhla had "full knowledge" of his medical
25 condition from January 2015 to August 12, 2016. See *id.* However, plaintiff was not cleared for
26 surgery until February 2016, and then was delayed further until August 12. Id. In the interim of
27 this delay, plaintiff alleges to have made over 40 medical requests. See *id.*

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1 As to all other named defendants, plaintiff makes general allegations that each
2 person failed to act within their assigned duties and this failure contributed to the loss of his leg.
3 See ECF No. 20, pgs. 4-6.

5 **II. DISCUSSION**

6 **A. Deliberate Indifference**

7 The treatment a prisoner receives in prison and the conditions under which the
8 prisoner is confined are subject to scrutiny under the Eighth Amendment, which prohibits cruel
9 and unusual punishment. See Helling v. McKinney, 509 U.S. 25, 31 (1993); Farmer v. Brennan,
10 511 U.S. 825, 832 (1994). The Eighth Amendment “. . . embodies broad and idealistic concepts
11 of dignity, civilized standards, humanity, and decency.” Estelle v. Gamble, 429 U.S. 97, 102
12 (1976). Conditions of confinement may, however, be harsh and restrictive. See Rhodes v.
13 Chapman, 452 U.S. 337, 347 (1981). Nonetheless, prison officials must provide prisoners with
14 “food, clothing, shelter, sanitation, medical care, and personal safety.” Toussaint v. McCarthy,
15 801 F.2d 1080, 1107 (9th Cir. 1986). A prison official violates the Eighth Amendment only when
16 two requirements are met: (1) objectively, the official’s act or omission must be so serious such
17 that it results in the denial of the minimal civilized measure of life’s necessities; and (2)
18 subjectively, the prison official must have acted unnecessarily and wantonly for the purpose of
19 inflicting harm. See Farmer, 511 U.S. at 834. Thus, to violate the Eighth Amendment, a prison
20 official must have a “sufficiently culpable mind.” See id.

21 Deliberate indifference to a prisoner’s serious illness or injury, or risks of serious
22 injury or illness, gives rise to a claim under the Eighth Amendment. See Estelle, 429 U.S. at 105;
23 see also Farmer, 511 U.S. at 837. This applies to physical as well as dental and mental health
24 needs. See Hoptowit v. Ray, 682 F.2d 1237, 1253 (9th Cir. 1982), abrogated on other grounds by
25 Sandin v. Conner, 515 U.S. 472 (1995). An injury or illness is sufficiently serious if the failure to
26 treat a prisoner’s condition could result in further significant injury or the “. . . unnecessary and
27 wanton infliction of pain.” McGuckin v. Smith, 974 F.2d 1050, 1059 (9th Cir. 1992), overruled
28 on other grounds by WMX Techs., Inc. v. Miller, 104 F.3d 1133 (9th Cir. 1997) (en banc); see

1 also Doty v. County of Lassen, 37 F.3d 540, 546 (9th Cir. 1994). Factors indicating seriousness
2 are: (1) whether a reasonable doctor would think that the condition is worthy of comment; (2)
3 whether the condition significantly impacts the prisoner's daily activities; and (3) whether the
4 condition is chronic and accompanied by substantial pain. See Lopez v. Smith, 203 F.3d 1122,
5 1131-32 (9th Cir. 2000) (en banc).

6 The requirement of deliberate indifference is less stringent in medical needs cases
7 than in other Eighth Amendment contexts because the responsibility to provide inmates with
8 medical care does not generally conflict with competing penological concerns. See McGuckin,
9 974 F.2d at 1060. Thus, deference need not be given to the judgment of prison officials as to
10 decisions concerning medical needs. See Hunt v. Dental Dep't, 865 F.2d 198, 200 (9th Cir.
11 1989). The complete denial of medical attention may constitute deliberate indifference. See
12 Toussaint v. McCarthy, 801 F.2d 1080, 1111 (9th Cir. 1986). Delay in providing medical
13 treatment, or interference with medical treatment, may also constitute deliberate indifference. See
14 Lopez, 203 F.3d at 1131. Where delay is alleged, however, the prisoner must also demonstrate
15 that the delay led to further injury. See McGuckin, 974 F.2d at 1060.

16 Negligence in diagnosing or treating a medical condition does not, however, give
17 rise to a claim under the Eighth Amendment. See Estelle, 429 U.S. at 106. Moreover, a
18 difference of opinion between the prisoner and medical providers concerning the appropriate
19 course of treatment does not give rise to an Eighth Amendment claim. See Jackson v. McIntosh,
20 90 F.3d 330, 332 (9th Cir. 1996).

21 1. **Defendant Narinder Saukhla**

22 Plaintiff has sufficiently alleged facts to state a cognizable claim of deliberate
23 indifference under the 8th Amendment. See ECF No. 20, pg. 4. By separate order issued
24 herewith, plaintiff will be required to submit documents necessary for service on this defendant.

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2. Remaining Defendants

2 Plaintiff has failed to state a cognizable claim against any of the other named
3 defendants. Plaintiff makes blanket allegations towards the defendants by stating that they (1) had
4 full knowledge of his serious medical condition, and (2) failed to act, resulting in the amputation
5 of his leg. See ECF No. 20, pgs. 4-6. However, plaintiff does not specify what each individual did
6 or did not do. These allegations simply make conclusory statements of “deliberate indifference”
7 and “com[ing] up short” without any particular statement of fact. See ECF No. 20, pgs. 4-6.
8 Simply attaching the claim’s label to each defendant is not enough. To state a claim, a plaintiff
9 must set forth specific facts as to each individual defendant’s causal role in the alleged
10 constitutional deprivation. See Leer v. Murphy, 844 F.2d 628, 634 (9th Cir. 1988). Without this,
11 the Court cannot engage in any meaningful analysis to determine whether plaintiff has stated a
12 cognizable claim for deliberate indifference against the named defendants.

B. Supervisory Liability

14 The Court observes defendants (1) Ralph Diaz; (2) Robert Burton; and (3) Lozano
15 are being charged with liability based merely on their role as supervisors at California State
16 Prison. Supervisory personnel are generally not liable under § 1983 for the actions of their
17 employees. See Taylor v. List, 880 F.2d 1040, 1045 (9th Cir. 1989) (holding that there is no
18 respondeat superior liability under § 1983). A supervisor is only liable for the constitutional
19 violations of subordinates if the supervisor participated in or directed the violations. See id. The
20 Supreme Court has rejected the notion that a supervisory defendant can be liable based on
21 knowledge and acquiescence in a subordinate’s unconstitutional conduct because government
22 officials, regardless of their title, can only be held liable under § 1983 for his or her own conduct
23 and not the conduct of others. See Ashcroft v. Iqbal, 556 U.S. 662, 676 (2009). Supervisory
24 personnel who implement a policy so deficient that the policy itself is a repudiation of
25 constitutional rights and the moving force behind a constitutional violation may, however, be
26 liable even where such personnel do not overtly participate in the offensive act. See Redman v.
27 Cnty of San Diego, 942 F.2d 1435, 1446 (9th Cir. 1991) (en banc).

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1 When a defendant holds a supervisory position, the causal link between such
2 defendant and the claimed constitutional violation must be specifically alleged. See Fayle v.
3 Stapley, 607 F.2d 858, 862 (9th Cir. 1979); Mosher v. Saalfeld, 589 F.2d 438, 441 (9th Cir.
4 1978). Vague and conclusory allegations concerning the involvement of supervisory personnel in
5 civil rights violations are not sufficient. See Ivey v. Board of Regents, 673 F.2d 266, 268 (9th
6 Cir. 1982). “[A] plaintiff must plead that each Government-official defendant, through the
7 official’s own individual actions, has violated the constitution.” Iqbal, 662 U.S. at 676.

8 Here, plaintiff appears to allege that the named defendants are liable as supervisory
9 personnel—asserting that as supervisors, these defendants are liable for the conduct of their
10 subordinates. See ECF No. 20, pg. 4. This is a respondeat superior theory of liability, which is not
11 cognizable under § 1983. See Taylor, 880 F.2d at 1045. A supervisor can only be held liable for
12 their own actions or inactions resulting in the violation of plaintiff’s constitutional rights, not the
13 actions or inactions of their subordinates. Therefore, plaintiff has failed to state a claim against
14 the named defendants.

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16 III. CONCLUSION

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

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1 If plaintiff chooses to amend the complaint, plaintiff must demonstrate how the
2 conditions complained of have resulted in a deprivation of plaintiff's constitutional rights. See
3 Ellis v. Cassidy, 625 F.2d 227 (9th Cir. 1980). The complaint must allege in specific terms how
4 each named defendant is involved, and must set forth some affirmative link or connection
5 between each defendant's actions and the claimed deprivation. See May v. Enomoto, 633 F.2d
6 164, 167 (9th Cir. 1980); Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978).

7 Finally, plaintiff is advised that if he does not file a third amended complaint
8 within the time provided herein, this action shall proceed on the second amended complaint as
9 against defendant Narnder Saukhla only and the court will issue findings and recommendations
10 that the remaining defendants be dismissed.

11 Accordingly, IT IS HEREBY ORDERED that plaintiff may file a third amended
12 complaint within 30 days of the date of service of this order.

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14 Dated: October 3, 2019


15 DENNIS M. COTA
16 UNITED STATES MAGISTRATE JUDGE

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