

1 “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory
2 statements do not suffice.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). Furthermore, a claim
3 upon which the court can grant relief has facial plausibility. Twombly, 550 U.S. at 570. “A
4 claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw
5 the reasonable inference that the defendant is liable for the misconduct alleged.” Iqbal, 556 U.S.
6 at 678. When considering whether a complaint states a claim upon which relief can be granted,
7 the court must accept the allegations as true, Erickson v. Pardus, 551 U.S. 89, 93-94 (2007), and
8 construe the complaint in the light most favorable to the plaintiff, see Scheuer v. Rhodes, 416
9 U.S. 232, 236 (1974).

10 In his amended complaint, plaintiff complains about the manner in which grievances were
11 processed. As plaintiff was informed in the court’s last screening order, prisoners do not have “a
12 separate constitutional entitlement to a specific prison grievance procedure.” Ramirez v. Galaza,
13 334 F.3d 850, 860 (9th Cir. 2003). Accordingly, the prison grievance procedure does not confer
14 any substantive constitutional rights upon inmates and actions in reviewing and denying inmate
15 appeals generally do not serve as a basis for liability under section 1983. Id.

16 Plaintiff does maintain rights arising under the First Amendment with respect to his use of
17 the prisoner grievance process. While not clear, it appears plaintiff alleges that his First
18 Amendment rights were violated by defendant Lacy when he rejected a particular grievance
19 because plaintiff referred to a lieutenant as a “pompous ass.” However, plaintiff was told he
20 could resubmit his grievance if he deleted the offensive phrase. This being the case, plaintiff
21 suffered no injury as a result of the rejection of the first grievance.

22 Plaintiff also alleges that certain actions taken against him were retaliatory. But plaintiff
23 fails to allege facts which reasonably suggest a causal connection between any adverse action and
24 protected conduct. Watison v. Carter, 668 F.3d 1108, 1114 (9th Cir. 2012). Plaintiff’s
25 allegations of retaliation are nothing more than “naked assertions.”

26 For these reasons, the court will recommend that plaintiff’s amended complaint be
27 dismissed for failure to state a claim upon which relief can be granted. Having already granted
28 plaintiff the opportunity to amend his pleadings in order to state a claim upon which relief could

1 be granted, granting leave to amend a second time appears futile.

2 In accordance with the above, IT IS HEREBY ORDERED that the Clerk shall assign a
3 district judge to this case.

4 IT IS HEREBY RECOMMENDED that:

- 5 1. Plaintiff's amended complaint (ECF No. 15) be dismissed; and
6 2. This case be closed.

7 These findings and recommendations are submitted to the United States District Judge
8 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
9 after being served with these findings and recommendations, plaintiff may file written
10 objections with the court. The document should be captioned "Objections to Magistrate Judge's
11 Findings and Recommendations." Plaintiff is advised that failure to file objections within the
12 specified time waives the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d
13 1153 (9th Cir. 1991).

14 Dated: April 3, 2020

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16 CAROLYN K. DELANEY
17 UNITED STATES MAGISTRATE JUDGE

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