



1 rests. See Kimes v. Stone, 84 F.3d 1121, 1129 (9th Cir. 1996). Because plaintiff must allege  
2 with at least some degree of particularity overt acts by specific defendants which support the  
3 claims, vague and conclusory allegations fail to satisfy this standard. Additionally, it is  
4 impossible for the court to conduct the screening required by law when the allegations are vague  
5 and conclusory.

## 6 7 **I. PLAINTIFF'S ALLEGATIONS**

8 Plaintiff names M. Spearman as defendant. Plaintiff's complaint makes a Due  
9 Process claim and an Equal Protection claim under the 14th Amendment. However, plaintiff's  
10 factual allegations are vague. From his complaint, plaintiff appears to allege that Spearman, a  
11 warden at High Desert State Prison in Susanville, CA, deprived him of his right to a hearing  
12 under Proposition 57 and the Constitution. Plaintiff does not explain the nature of the subject  
13 hearing, but does mention that under recent amendments to the Constitution, inmates such as  
14 himself are eligible for parole after their base prison terms have passed.

## 15 16 **II. DISCUSSION**

17 Plaintiff's complaint fails to state sufficient facts to support a cognizable claim.  
18 To state a claim under 42 U.S.C. § 1983, the plaintiff must allege an actual connection or link  
19 between the actions of the named defendants and the alleged deprivations. See Monell v. Dep't  
20 of Social Servs., 436 U.S. 658 (1978); Rizzo v. Goode, 423 U.S. 362 (1976). "A person  
21 'subjects' another to the deprivation of a constitutional right, within the meaning of § 1983, if he  
22 does an affirmative act, participates in another's affirmative acts, or omits to perform an act which  
23 he is legally required to do that causes the deprivation of which complaint is made." Johnson v.  
24 Duffy, 588 F.2d 740, 743 (9th Cir. 1978). Vague and conclusory allegations concerning the  
25 involvement of official personnel in civil rights violations are not sufficient. See Ivey v. Board of  
26 Regents, 673 F.2d 266, 268 (9th Cir. 1982). Rather, the plaintiff must set forth specific facts as to  
27 each individual defendant's causal role in the alleged constitutional deprivation. See Leer v.  
28 Murphy, 844 F.2d 628, 634 (9th Cir. 1988).

1 Here, Plaintiff's complaint is comprised entirely of vague legal conclusions.  
2 Plaintiff claims that Spearman is "holding his own regulations" and violating plaintiff's right to a  
3 hearing under "Prop 57" and the Constitution. ECF No. 1 at 4. However, there is no reference to  
4 any particular hearing, nor the reason for which plaintiff requested a hearing. The factual  
5 circumstances which brought on this complaint are not mentioned. Plaintiff does not allege any  
6 facts which underlie his claim and instead simply states that new laws may make him eligible for  
7 parole. ECF No. 1 at 5. Plaintiff has failed to set forth any facts which may establish a causal link  
8 between the defendant's actions and the alleged deprivation of rights. Neither vague and  
9 conclusory allegations, nor simple recitations of the law, shall be sufficient to establish a claim  
10 under the 14th Amendment. Plaintiff will be provided an opportunity to amend the complaint to  
11 set forth specific facts demonstrating what the defendant did and how that action or inaction violated  
12 plaintiff's constitutional rights.

### 13 14 III. CONCLUSION

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

25 If plaintiff chooses to amend the complaint, plaintiff must demonstrate how the  
26 conditions complained of have resulted in a deprivation of plaintiff's constitutional rights. See  
27 Ellis v. Cassidy, 625 F.2d 227 (9th Cir. 1980). The complaint must allege in specific terms how  
28 each named defendant is involved, and must set forth some affirmative link or connection

1 between each defendant's actions and the claimed deprivation. See May v. Enomoto, 633 F.2d  
2 164, 167 (9th Cir. 1980); Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978).

3 Finally, plaintiff is warned that failure to file an amended complaint within the  
4 time provided in this order may be grounds for dismissal of this action. See Ferdik, 963 F.2d at  
5 1260-61; see also Local Rule 110. Plaintiff is also warned that a complaint which fails to comply  
6 with Rule 8 may, in the court's discretion, be dismissed with prejudice pursuant to Rule 41(b).  
7 See Nevijel v. North Coast Life Ins. Co., 651 F.2d 671, 673 (9th Cir. 1981).

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. Plaintiff's complaint is dismissed with leave to amend; and
- 10 2. Plaintiff shall file a first amended complaint within 30 days of the date of  
11 service of this order.

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13 Dated: October 4, 2019



14 DENNIS M. COTA  
15 UNITED STATES MAGISTRATE JUDGE  
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