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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

GARY RANDALL GRUBBS,  
  
Plaintiff,  
  
v.  
  
SACRAMENTO COUNTY JAIL, et al.,  
  
Defendants.

Case No. 2:20-cv-01149-JDP (PC)  
  
SCREENING ORDER  
  
SECOND AMENDED COMPLAINT  
DUE WITHIN SIXTY DAYS  
  
ECF No. 13

Plaintiff Gary Randall Grubbs alleges that poor medical care during a brief stint in the Sacramento County Jail resulted in the loss of two of his fingers. He proceeds without counsel in this civil rights action brought under 42 U.S.C. § 1983. The court dismissed the complaint with leave to amend for failure to state a claim. ECF No. 14. On August 5, 2020, plaintiff filed an amended complaint. ECF No. 13. Before that amended complaint was screened, he filed a letter to the order that reassigned this case to me. ECF No. 18. That response contained factual allegations, and I construe it as a second amended complaint that overrides the first amended complaint. The second amended complaint leaves some doubt as to whom plaintiff is suing. The complaint does not state which persons or entities defendants were deliberately indifferent to his serious medical needs. The complaint is not cognizable. The complaint will be dismissed, but he will be given another opportunity to amend.

Screening and Pleading Requirements

A federal court must screen a prisoner's complaint that seeks relief against a governmental entity, officer, or employee. See 28 U.S.C. § 1915A(a). The court must identify any cognizable claims and dismiss any portion of the complaint that is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. See 28 U.S.C. §§ 1915A(b)(1), (2).

A complaint must contain a short and plain statement that plaintiff is entitled to relief, Fed. R. Civ. P. 8(a)(2), and provide enough facts to state a claim to relief that is plausible on its face. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The plausibility standard does not require detailed allegations, but legal conclusions do not suffice. See *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). If the allegations do not permit the court to infer more than the mere possibility of misconduct, the complaint states no claim. *Id.* at 679. The complaint need not identify a precise legal theory. *Kobold v. Good Samaritan Reg. Med. Ctr.*, 832 F.3d 1024, 1038 (9th Cir. 2016). Instead, what plaintiff must state is a set of allegations that give rise to an enforceable right to relief. *Nagrampa v. MailCoups, Inc.*, 469 F.3d 1257, 1264 n.2 (9th Cir. 2006) (en banc) (citations omitted).

See *Haines v. Kerner*, 404 U.S. 519, 520 (1972) (per curiam). It appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which yqwnf"gpvkng"j ko"vq"tgnkgh0Ñ""*Hayes v. Idaho Corr. Ctr.*, 849 F.3d 1204, 1208 (9th Cir. 2017). However, a liberal interpretation of a civil rights complaint may not supply essential elements of the claim that were not opkvkcnn{"rngf00Ñ" Dtwpu"x0" Pcv0n" E tgf kv" Wpkqp" Cf okp0, 122 F.3d 1251, 1257 (9th Cir. 1997) (quoting *Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982)).

Analysis

A. Background

Plaintiff alleges that, in 2019, he was arrested by the Sacramento County Sheriff for a probation violation. ECF No. 18 at 1. On intake at the Sacramento County Jail, he was examined by a nurse. *Id.* Plaintiff explained to the nurse that two fingers on his right hand were in pain.

1 Id. The nurse told him to fill out a medical slip once he was booked into jail. Id.

2 Plaintiff submitted a medical slip and was seen after ten days. Id. at 1-2. He does not  
3 state who saw him or what diagnosis, if any, he received. Plaintiff then submitted a second  
4 medical slip; he claims that another ten days passed without him being called to medical. Id. at  
5 In the meantime, plaintiff alleges that his fingers turned gangrenous. Id. He pressed the  
6 emergency button in his cell and requested medical attention from the unnamed deputy who  
7 responded. Id. The deputy told him that he had spoken to medical and had been told that plain  
8 needed to submit another medical slip. Id. Plaintiff continued to press the button and explain to  
9 the deputy that his fingers needed to be examined immediately. Id. The deputy told him that it  
10 ycu"Đpqv"jku"rtqdnqoÑ"cpf"vjcv"kh"jg"mgrv"rtguukp i"vjg"dwwqp"jg"yqwnf"dg"rncegf"qp"nqemfqyp0"  
11 Id.

12 Thirty days after the second medical slip was submitted, plaintiff was seen by Dr. Sun, a  
13 physician at the jail. Id. at 3. Sun told him that he had spoken to medical and had been told that plain  
14 Id. Plaintiff does not explain whether he understood Sun to mean amputation or some other  
15 incisive procedure. Plaintiff told Sun that he did not think cutting was proper. Id.

16 Chvgt"rnckpvkhh0u"nqtv{-five day stay in the Sacramento County Jail was over, he went to a  
17 hospital where doctors told him that he had a bone infection. Id. Both of his fingers were  
18 amputated. Id.

19 B. Discussion

20 Rnckpvkhh0u"cnng i cvkqpu, taken as true, could show that his medical care at the Sacramento  
21 County Jail was constitutionally inadequate. I cannot direct service, however, until plaintiff  
22 identifies the defendants against whom he intends to proceed and explains how each was  
23 responsible for his inadequate care.

24 Plaintiff should bear in mind that a prison official acts with deliberate indifference when  
25 jg"qt"ujg"Đknows of and disregards an excessive risk to inmate health and safety. *Sutton v.*  
26 County of Washoe, Nevada, 290 F.3d 1175, 1187 (9th Cir. 2002). The official must be aware of  
27 facts from which the inference could be drawn that a substantial risk of serious harm exists  
28 and must also draw the inference. *Farmer v. Brennan*, 511 U.S. 825, 837 (1994). In the medical

1 context, negligence is not enough to state a claim for deliberate indifference. *Toguchi v. Chung*,  
 2 391 F.3d 1051, 1057 (9th Cir. 2004). The only person named in the second amended complaint  
 3 Dr. Sun. Plaintiff has not identified him as a defendant or explained how, if at all, Sun was  
 4 responsible for the delay in examining his fingers.

5 Plaintiff may file an amended complaint if he wishes to proceed with this suit. An  
 6 amended complaint would need to allege what each defendant did and why those actions violated  
 7 his rights. Plaintiff has not alleged that he was denied a reasonable opportunity to be examined within  
 8 sixty days, I may not be dismissed for the reasons stated in this order.

9  
 10 Should plaintiff choose to amend the complaint, the amended complaint should be brief,  
 11 Fed. R. Civ. P. 8(a), but must state what actions each named defendant took that deprived plaintiff  
 12 of constitutional or other federal rights. See *Iqbal*, 556 U.S. at 678; *Jones v. Williams*, 297 F.3d  
 13 521, 526 (9th Cir. 2006). Plaintiff must allege that each defendant personally participated in the deprivation of his rights.  
 14 See *Jones*, 297 F.3d at 934. Plaintiff should note that a short, concise statement in which the  
 15 allegations are ordered chronologically will help the court identify his claims. Plaintiff should  
 16 describe how each defendant wronged him, the circumstances surrounding each of the claimed  
 17 violations, and any harm he suffered.

18  
 19 If plaintiff decides to file an amended complaint, the amended complaint will supersede  
 20 the current complaint. See *Lacey v. Maricopa County*, 693 F.3d 896, 907 n.1 (9th Cir. 2012) (en  
 21 banc). This means that the amended complaint must be complete on its face without reference  
 22 to the prior pleading. See E.D. Cal. Local Rule 220. Once an amended complaint is filed, the  
 23 current complaint no longer serves any function. Therefore, in an amended complaint, as in an  
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26 <sup>1</sup> Plaintiff will not be permitted to change the nature of this suit by adding new, unrelated  
 27 claims or new, unrelated defendants in his amended complaint. See Fed. R. Civ. P. 18; *George*  
 28 *Smith*, 729 F.2d 827, 829 (9th Cir. 1984). Plaintiff must allege that each defendant personally participated in the deprivation of his rights.

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2 to the appropriate case number.

3 Finally, plaintiff is advised that, if he does not know the name of any person whom he  
4 would like to proceed against, he may identify that person by name (as in John Doe  
5 or Jane Doe) in the complaint. If the plaintiff is unable to identify a person through  
6 discovery, those defendants can be served and added to this action.

7 Accordingly, it is hereby ordered that:

- 8 1. Within sixty days from the service of this order, plaintiff must file a Second Amended  
9 Complaint if he wishes to proceed with this case.
- 10 2. Failure to comply with this order may result in the dismissal of this action.
- 11 3. The clerk's office is directed to send plaintiff a complaint form.

12 IT IS SO ORDERED

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14 Dated November 17, 2020

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16 JEREMY D. PETERSON  
17 UNITED STATES MAGISTRATE JUDGE  
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