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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT CURTIS WILLIAMS, III,
Plaintiff,
v.
ALI,
Defendant.

No. 2:21-cv-01877-CKD P

ORDER

Plaintiff is a state inmate proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

Plaintiff requests leave to proceed in forma pauperis. As plaintiff has submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a), his request will be granted. Plaintiff is required to pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. §§ 1914(a), 1915(b)(1). By separate order, the court will direct the appropriate agency to collect the initial partial filing fee from plaintiff’s trust account and forward it to the Clerk of the Court. Thereafter, plaintiff will be obligated for monthly payments of twenty percent of the preceding month’s income credited to plaintiff’s prison trust account. These payments will be forwarded by the appropriate agency to the Clerk of the Court each time the amount in plaintiff’s account

1 exceeds \$10.00, until the filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

2 **I. Screening Requirement**

3 The court is required to screen complaints brought by prisoners seeking relief against a
4 governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The
5 court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally
6 “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek
7 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1),(2).

8 A claim is legally frivolous when it lacks an arguable basis either in law or in fact.
9 Neitzke v. Williams, 490 U.S. 319, 325 (1989); Franklin v. Murphy, 745 F.2d 1221, 1227-28 (9th
10 Cir. 1984). The court may, therefore, dismiss a claim as frivolous where it is based on an
11 indisputably meritless legal theory or where the factual contentions are clearly baseless. Neitzke,
12 490 U.S. at 327. The critical inquiry is whether a constitutional claim, however inartfully
13 pleaded, has an arguable legal and factual basis. See Jackson v. Arizona, 885 F.2d 639, 640 (9th
14 Cir. 1989); Franklin, 745 F.2d at 1227.

15 In order to avoid dismissal for failure to state a claim a complaint must contain more than
16 “naked assertions,” “labels and conclusions” or “a formulaic recitation of the elements of a cause
17 of action.” Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-557 (2007). In other words,
18 “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory
19 statements do not suffice.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). Furthermore, a claim
20 upon which the court can grant relief has facial plausibility. Twombly, 550 U.S. at 570. “A
21 claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw
22 the reasonable inference that the defendant is liable for the misconduct alleged.” Iqbal, 556 U.S.
23 at 678. When considering whether a complaint states a claim upon which relief can be granted,
24 the court must accept the allegations as true, Erickson v. Pardus, 551 U.S. 89, 93-94 (2007), and
25 construe the complaint in the light most favorable to the plaintiff, see Scheuer v. Rhodes, 416
26 U.S. 232, 236 (1974).

27 **II. Allegations in the Complaint**

28 At all times relevant to the allegations in the complaint, plaintiff was a mentally ill

1 prisoner at the California Medical Facility with a history of suicide attempts. On June 5, 2020, he
2 was interviewed by Dr. Ali, the only defendant in this action. Plaintiff informed defendant Ali
3 that he had an active plan to commit suicide as well as the means to do so since he had smuggled
4 in a razor. Defendant Ali discontinued plaintiff's 15-minute suicide checks. A few hours later,
5 plaintiff swallowed the razor in an attempt to commit suicide. Plaintiff called "man down," but
6 no medical assistance was provided. So plaintiff boarded up his cell window and an extraction
7 team entered his cell. Defendant Ali then forcibly medicated plaintiff with Thorazine without
8 plaintiff's consent. By way of relief, plaintiff seeks compensatory and punitive damages.

9 III. Legal Standards

10 The Supreme Court has recognized an individual liberty interest in freedom from the
11 forcible administration of antipsychotic medication that is protected by the due process clause of
12 the Fourteenth Amendment. Washington v. Harper, 494 U.S. 210, 221-22 (1990); United States
13 v. Ruiz-Gaxiola, 623 F.3d 684, 691 (9th Cir. 2010). However, when an inmate is a danger to
14 himself or others, and treatment is in his medical interest, the due process clause permits the state
15 to administer medication without the inmate's consent. Harper, 494 U.S. at 227; see also Riggins
16 v. Nevada, 504 U.S. 127, 135 (1992) (emphasizing that "forcing anti-psychotic drugs on a
17 convicted prisoner is impermissible absent a finding of overriding justification and a
18 determination of medical appropriateness.").

19 In California, the procedural due process protections involved with the involuntary
20 medication of prisoners is set out in Keyhea v. Rushen, 178 Cal.App.3d 526 (Cal. Ct. App. 1986).
21 "A Keyhea order permits the long-term involuntary medication of an inmate upon a court finding
22 that the course of involuntary medication is recommended and that the prisoner, as a result of
23 mental disorder, is gravely disabled and incompetent to refuse medication, or is a danger to
24 himself or others." Davis v. Walker, 745 F.3d 1303, 1307 n.2 (9th Cir. 2014).

25 IV. Analysis

26 After conducting the required screening, the court finds that plaintiff sufficiently alleges
27 an Eighth Amendment deliberate indifference claim against defendant Ali. However, plaintiff
28 does not state a cognizable Fourteenth Amendment claim against defendant Ali for forcibly

1 medicating him because the allegations in the complaint demonstrate that plaintiff was a risk to
2 himself at the time that he was administered Thorazine. Plaintiff may choose to proceed on the
3 claim found cognizable against defendant Ali, or he may attempt to cure the defects in his
4 pleading by filing a first amended complaint. If plaintiff chooses to proceed on the Eighth
5 Amendment deliberate indifference claim against defendant Ali, the court will construe this as a
6 request to voluntarily dismiss the additional claim pursuant to Rule 41(a)(1)(i) of the Federal
7 Rules of Civil Procedure.

8 If plaintiff chooses to amend the complaint, plaintiff must demonstrate how the conditions
9 complained of have resulted in a deprivation of plaintiff's constitutional rights. See Ellis v.
10 Cassidy, 625 F.2d 227 (9th Cir. 1980). Also, in his amended complaint, plaintiff must allege in
11 specific terms how each named defendant is involved. There can be no liability under 42 U.S.C.
12 § 1983 unless there is some affirmative link or connection between a defendant's actions and the
13 claimed deprivation. Rizzo v. Goode, 423 U.S. 362 (1976). Furthermore, vague and conclusory
14 allegations of official participation in civil rights violations are not sufficient. Ivey v. Board of
15 Regents, 673 F.2d 266, 268 (9th Cir. 1982).

16 Finally, plaintiff is informed that the court cannot refer to a prior pleading in order to
17 make plaintiff's amended complaint complete. Local Rule 220 requires that an amended
18 complaint be complete in itself without reference to any prior pleading. This is because, as a
19 general rule, an amended complaint supersedes the original complaint. See Loux v. Rhay, 375
20 F.2d 55, 57 (9th Cir. 1967). Once plaintiff files an amended complaint, the original pleading no
21 longer serves any function in the case. Therefore, in an amended complaint, as in an original
22 complaint, each claim and the involvement of each defendant must be sufficiently alleged.

23 **V. Plain Language Summary for Pro Se Party**

24 The following information is meant to explain this order in plain English and is not
25 intended as legal advice.

26 Some of the allegations in the complaint state claims for relief against the defendant, and
27 some do not. You must decide if you want to (1) proceed immediately on the Eighth Amendment
28 deliberate indifference claim against defendant Ali; or, 2) amend the complaint to try to fix the

1 problems identified in this order with respect to the remaining claim against defendant Ali. **Once**
2 **you decide, you must complete the attached Notice of Election form by checking only one**
3 **box and returning it to the court.**

4 Once the court receives the Notice of Election, it will issue an order telling you what you
5 need to do next. If you do not return this Notice, the court will order service of the complaint
6 only on the claims found cognizable in this screening order and will recommend dismissing the
7 remaining claims.

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. Plaintiff's motion for leave to proceed in forma pauperis (ECF No. 2) is granted.
- 10 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. All fees
11 shall be collected and paid in accordance with this court's order to the Director of the
12 California Department of Corrections and Rehabilitation filed concurrently herewith.
- 13 3. Plaintiff has the option to proceed immediately on the Eighth Amendment deliberate
14 indifference claim against defendant Ali. In the alternative, plaintiff may choose to
15 amend the complaint to fix the deficiencies identified in this order with respect to the
16 remaining claim against defendant.
- 17 4. Within 21 days from the date of this order, plaintiff shall complete and return the
18 attached Notice of Election form notifying the court whether he wants to proceed on
19 the screened complaint or whether he wants time to file a first amended complaint.
- 20 5. If plaintiff fails to return the attached Notice of Election within the time provided, the
21 court will construe this failure as consent to dismiss the deficient claim and proceed
22 only on the cognizable claim identified above.

23 Dated: January 10, 2022

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26 CAROLYN K. DELANEY
27 UNITED STATES MAGISTRATE JUDGE
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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT CURTIS WILLIAMS, III,
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No. 2:21-cv-01877-CKD

NOTICE OF ELECTION

Check only one option:

_____ Plaintiff wants to proceed immediately on the Eighth Amendment deliberate indifference claim against defendant Ali. Plaintiff voluntarily dismisses the remaining claim against defendant; **or**

_____ Plaintiff wants time to file a first amended complaint.

DATED:

Plaintiff