

1
2
3
4
5 UNITED STATES DISTRICT COURT
6 FOR THE EASTERN DISTRICT OF CALIFORNIA
7

8 LLOYD CLIFTON DAVIS,

9 Plaintiff,

10 v.

11 RICK HILL, et al.,

12 Defendants.
13
14
15
16
17

Case No. 2:22-cv-00407-TLN-JDP (PC)

SCREENING ORDER THAT PLAINTIFF:

(1) STAND BY HIS COMPLAINT
SUBJECT TO A RECOMMENDATION
THAT IT BE DISMISSED; OR

(2) FILE AN AMENDED COMPLAINT

ECF No. 10

THIRTY-DAY DEADLINE

18
19 Plaintiff, a state prisoner, alleges that defendants violated his First Amendment rights by
20 interfering with his legal mail and frustrating his access to the courts. Plaintiff's complaint does
21 not state a cognizable claim against any defendant.

22 **Screening Order**

23 **I. Screening and Pleading Requirements**

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

1 A complaint must contain a short and plain statement that plaintiff is entitled to relief,
2 Fed. R. Civ. P. 8(a)(2), and provide “enough facts to state a claim to relief that is plausible on its
3 face,” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The plausibility standard does not
4 require detailed allegations, but legal conclusions do not suffice. *See Ashcroft v. Iqbal*, 556 U.S.
5 662, 678 (2009). If the allegations “do not permit the court to infer more than the mere
6 possibility of misconduct,” the complaint states no claim. *Id.* at 679. The complaint need not
7 identify “a precise legal theory.” *Kobold v. Good Samaritan Reg’l Med. Ctr.*, 832 F.3d 1024,
8 1038 (9th Cir. 2016). Instead, what plaintiff must state is a “claim”—a set of “allegations that
9 give rise to an enforceable right to relief.” *Nagrampa v. MailCoups, Inc.*, 469 F.3d 1257, 1264
10 n.2 (9th Cir. 2006) (en banc) (citations omitted).

11 The court must construe a pro se litigant’s complaint liberally. *See Haines v. Kerner*, 404
12 U.S. 519, 520 (1972) (per curiam). The court may dismiss a pro se litigant’s complaint “if it
13 appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which
14 would entitle him to relief.” *Hayes v. Idaho Corr. Ctr.*, 849 F.3d 1204, 1208 (9th Cir. 2017).
15 However, “‘a liberal interpretation of a civil rights complaint may not supply essential elements
16 of the claim that were not initially pled.’” *Bruns v. Nat’l Credit Union Admin.*, 122 F.3d 1251,
17 1257 (9th Cir. 1997) (quoting *Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982)).

18 **II. Analysis**

19 Plaintiff alleges various instances of interference with his legal mail. ECF No. 10 at 4-6.
20 The complaint fails, however, to sufficiently link the interference with any of the four named
21 defendants; I cannot tell how each of the defendants is alleged to have violated plaintiff’s rights.
22 To satisfy federal pleading standards, a complaint must put each defendant on notice as to
23 plaintiff’s claims against them. *See Austin v. Terhune*, 367 F.3d 1167, 1171 (9th Cir. 2004).

24 Plaintiff may file an amended complaint that addresses these shortcomings. If he decides
25 to do so, the amended complaint will supersede the current complaint. *See Lacey v. Maricopa*
26 *County*, 693 F. 3d 896, 907 n.1 (9th Cir. 2012) (en banc). This means that the amended
27 complaint will need to be complete on its face without reference to the prior pleading. *See E.D.*
28 *Cal. Local Rule 220*. Once an amended complaint is filed, the current complaint no longer serves

1 any function. Therefore, in an amended complaint, as in an original complaint, plaintiff will need
2 to assert each claim and allege each defendant's involvement in sufficient detail. The amended
3 complaint should be titled "Second Amended Complaint" and refer to the appropriate case
4 number.

5 Accordingly, it is ORDERED that:

- 6 1. Within thirty days from the service of this order, plaintiff must either file an amended
7 complaint or state his intent to stand by the current complaint, subjecting to a recommendation of
8 dismissal for failure to state a claim.
- 9 2. Failure to comply with this order may result in the dismissal of this action.
- 10 3. The Clerk of Court is directed to send plaintiff a complaint form.

11 IT IS SO ORDERED.

12 Dated: August 1, 2022

13 
14 JEREMY D. PETERSON
15 UNITED STATES MAGISTRATE JUDGE
16
17
18
19
20
21
22
23
24
25
26
27
28