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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GURPREET SINGH,

 Plaintiff,

 v.

SACRAMENTO COUNTY SHERIFF, et
al.,

 Defendants.

No. 2:23-cv-0237 KJN P

ORDER

Plaintiff is a jail inmate, proceeding pro se. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983, and requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

Plaintiff submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a). Accordingly, the request to proceed in forma pauperis is 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 this order, plaintiff is assessed an initial partial filing fee in accordance with the provisions of 28 U.S.C. § 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 is obligated to make monthly payments of twenty percent of the preceding month’s income credited to plaintiff’s trust account. These payments will be forwarded by the appropriate agency to the Clerk of the Court each time the

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

3 As discussed below, plaintiff's complaint is dismissed with leave to amend.

4 Screening Standards

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

10 A claim is legally frivolous when it lacks an arguable basis either in law or in fact.
11 Neitzke v. Williams, 490 U.S. 319, 325 (1989); Franklin v. Murphy, 745 F.2d 1221, 1227-28 (9th
12 Cir. 1984). The court may, therefore, dismiss a claim as frivolous when it is based on an
13 indisputably meritless legal theory or where the factual contentions are clearly baseless. Neitzke,
14 490 U.S. at 327. The critical inquiry is whether a constitutional claim, however inartfully
15 pleaded, has an arguable legal and factual basis. See Jackson v. Arizona, 885 F.2d 639, 640 (9th
16 Cir. 1989), superseded by statute as stated in Lopez v. Smith, 203 F.3d 1122, 1130-31 (9th Cir.
17 2000) ("[A] judge may dismiss [in forma pauperis] claims which are based on indisputably
18 meritless legal theories or whose factual contentions are clearly baseless."); Franklin, 745 F.2d at
19 1227.

20 Rule 8(a)(2) of the Federal Rules of Civil Procedure "requires only 'a short and plain
21 statement of the claim showing that the pleader is entitled to relief,' in order to 'give the
22 defendant fair notice of what the . . . claim is and the grounds upon which it rests.'" Bell Atlantic
23 Corp. v. Twombly, 550 U.S. 544, 555 (2007) (quoting Conley v. Gibson, 355 U.S. 41, 47 (1957)).
24 In order to survive dismissal for failure to state a claim, a complaint must contain more than "a
25 formulaic recitation of the elements of a cause of action;" it must contain factual allegations
26 sufficient "to raise a right to relief above the speculative level." Bell Atlantic, 550 U.S. at 555.
27 However, "[s]pecific facts are not necessary; the statement [of facts] need only 'give the
28 defendant fair notice of what the . . . claim is and the grounds upon which it rests.'" Erickson v.

1 Pardus, 551 U.S. 89, 93 (2007) (quoting Bell Atlantic, 550 U.S. at 555, citations and internal
2 quotations marks omitted). In reviewing a complaint under this standard, the court must accept as
3 true the allegations of the complaint in question, Erickson, 551 U.S. at 93, and construe the
4 pleading in the light most favorable to the plaintiff. Scheuer v. Rhodes, 416 U.S. 232, 236
5 (1974), overruled on other grounds, Davis v. Scherer, 468 U.S. 183 (1984).

6 The Civil Rights Act

7 To prevail on a claim under § 1983, a plaintiff must demonstrate: (1) the violation of a
8 federal constitutional or statutory right; and (2) that the violation was committed by a person
9 acting under the color of state law. See West v. Atkins, 487 U.S. 42, 48 (1988); Jones v.
10 Williams, 297 F.3d 930, 934 (9th Cir. 2002). An individual defendant is not liable on a civil
11 rights claim unless the facts establish the defendant's personal involvement in the constitutional
12 deprivation or a causal connection between the defendant's wrongful conduct and the alleged
13 constitutional deprivation. See Hansen v. Black, 885 F.2d 642, 646 (9th Cir. 1989); Johnson v.
14 Duffy, 588 F.2d 740, 743-44 (9th Cir. 1978). That is, plaintiff may not sue any official on the
15 theory that the official is liable for the unconstitutional conduct of his or her subordinates.
16 Ashcroft v. Iqbal, 556 U.S. 662, 679 (2009). The requisite causal connection between a
17 supervisor's wrongful conduct and the violation of the prisoner's constitutional rights can be
18 established in a number of ways, including by demonstrating that a supervisor's own culpable
19 action or inaction in the training, supervision, or control of his subordinates was a cause of
20 plaintiff's injury. Starr v. Baca, 652 F.3d 1202, 1208 (9th Cir. 2011).

21 Plaintiff's Complaint

22 Plaintiff alleges that on July 7, 2002, for escort to an outside hospital, defendant Deputy
23 Mehmood placed plaintiff in handcuffs behind his back. At the hospital, plaintiff complained that
24 the handcuffs caused him shoulder pain, then became numb. Despite many complaints over
25 many hours, plaintiff received no help or resolution to the excessive handcuffing. "Due to the
26 negligence and the violation of the color of code by the deputy," plaintiff has major complications
27 with his left arm and permanent damages. (ECF No. 1 at 3.) Then he adds: "Also medical
28 negligence." (Id.) Plaintiff seeks money damages. As defendants, plaintiff names in the caption

1 of his complaint: “Sacramento County Sheriff Rio Cosumnes Correctional Center,” but in the
2 defendants’ section of the complaint, plaintiff names Deputy Sheriff Mehmood (Badge #675) and
3 “Saucedo (Badge #569).” (ECF No. 1 at 2.)

4 Discussion

5 As currently pled, plaintiff’s complaint fails to state a cognizable civil rights violation.
6 First, plaintiff does not identify whether he has been arraigned and is awaiting trial as a pretrial
7 detainee or is serving a sentence following a conviction. Such information determines the
8 standards the court uses to evaluate plaintiff’s claims. Second, plaintiff does not connect or link
9 each named defendant with an alleged civil rights violation. Third, plaintiff fails to provide
10 sufficient facts to determine whether plaintiff may be able to state a cognizable claim. For
11 example, because plaintiff named two deputies as defendants, he should identify by name the
12 person who acted or failed to act and set forth specific facts as to what each defendant did or did
13 not do. Generally, “[i]n those tight handcuffing cases in which courts have found excessive force,
14 the arrestee was either in visible pain, complained of pain, alerted the officer to pre-existing
15 injuries, sustained more severe injuries, was in handcuffs for a longer period of time, asked to
16 have the handcuffs loosened or released, and/or alleged other forms of abusive conduct in
17 conjunction with the tight handcuffing.” See Shaw v. City of Redondo Beach, 2005 WL
18 6117549, at *8 (C.D. Cal. 2005).

19 Fourth, plaintiff includes no charging allegations as to defendant Saucedo, the Sacramento
20 County Sheriff, or the Rio Cosumnes Correctional Center. If plaintiff cannot allege specific facts
21 as to how a particular defendant allegedly violated plaintiff’s rights, plaintiff should not include
22 such defendant in the amended complaint.

23 Finally, plaintiff provided no facts to support his statement “also medical negligence.”

24 For all of these reasons, plaintiff’s complaint must be dismissed. Following are the
25 standards governing plaintiff’s putative claims to assist him in drafting his amended pleading.

26 Fourteenth Amendment Claim: Handcuffs

27 The Due Process Clause of the Fourteenth Amendment protects a post-arraignment
28 pretrial detainee from the use of excessive force that amounts to punishment. Graham v. Connor,

1 490 U.S. 386, 395 n.10 (1989) (citing Bell v. Wolfish, 441 U.S. 520, 535-39 (1979)). To prove an
2 excessive force claim under § 1983, a pretrial detainee must show only that the “force purposely
3 or knowingly used against him was objectively unreasonable.” Kingsley v. Hendrickson, 576
4 U.S. 389, 396-97 (2015). “A court must make this determination from the perspective of a
5 reasonable officer on the scene, including what the officer knew at the time, not with the 20/20
6 vision of hindsight.” Id. “[O]bjective reasonableness turns on the ‘facts and circumstances of
7 each particular case.’” Id. (quoting Graham v. Connor, 490 U.S. at 396).

8 Fourteenth Amendment Claim: Medical

9 To prevail on a Fourteenth Amendment inadequate medical care claim against an
10 individual defendant, a pretrial detainee must establish: “(i) the defendant made an intentional
11 decision with respect to the conditions under which the plaintiff was confined; (ii) those
12 conditions put the plaintiff at substantial risk of suffering serious harm; (iii) the defendant did not
13 take reasonable available measures to abate that risk, even though a reasonable official in the
14 circumstances would have appreciated the high degree of risk involved -- making the
15 consequences of the defendant’s conduct obvious; and (iv) by not taking such measures, the
16 defendant caused the plaintiff’s injuries.” Gordon v. County of Orange, 888 F.3d 1118, 1124-25
17 (9th Cir. 2018). The third element requires the plaintiff to show “the defendant’s conduct” was
18 “objectively unreasonable, a test that will necessarily ‘turn[] on the facts and circumstances of
19 each particular case.’” Id. (quoting Castro v. Cnty. of Los Angeles, 833 F.3d 1060, 1071 (9th Cir.
20 2016) (en banc). Under this standard, plaintiff must “prove more than negligence but less than
21 subjective intent - something akin to reckless disregard.” Gordon, 888 F.3d at 1125.

22 Eighth Amendment Claim: Handcuffs

23 Where excessive force is alleged, “the core judicial inquiry is . . . whether force was
24 applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to
25 cause harm.” Hudson v. McMillian, 503 U.S. 1, 7 (1992). In order to violate the Eighth
26 Amendment, a defendant must use force which is “unnecessary” and “wanton.” Whitley v.
27 Albers, 475 U.S. 312, 319 (1986). To determine whether a defendant used excessive force in the
28 prison or jail context, the Court considers the following factors: (1) the need for the application

1 of force; (2) the relationship between the need and the amount of force used; (3) the extent of the
2 injury inflicted; (4) the threat “reasonably perceived by the responsible officials”; and (5) “any
3 efforts made to temper the severity of a forceful response.” Hudson, 503 U.S. at 7 (citing
4 Whitley, 475 U.S. at 321). “From such considerations inferences may be drawn as to whether the
5 use of force could plausibly have been thought necessary, or instead evinced such wantonness
6 with respect to the unjustified infliction of harm as is tantamount to a knowing willingness that it
7 occur.” Whitley, 475 U.S. at 321. A constitutional violation can only be established if force was
8 used “maliciously and sadistically for the purpose of causing harm.” Id. at 319; see also Wilson
9 v. Seiter, 501 U.S. 294, 298 (1991) (holding claims that an official inflicted cruel and unusual
10 punishment contain both an objective component as well as a subjective “inquiry into the prison
11 official’s state of mind”).

12 Eighth Amendment Claim: Medical Care

13 A prisoner’s claim of inadequate medical care does not constitute cruel and unusual
14 punishment in violation of the Eighth Amendment unless the mistreatment rises to the level of
15 “deliberate indifference to serious medical needs.” Jett v. Penner, 439 F.3d 1091, 1096 (9th Cir.
16 2006) (quoting Estelle v. Gamble, 429 U.S. 97, 104 (1976)). Deliberate indifference may be
17 shown by the denial, delay or intentional interference with medical treatment or by the way in
18 which medical care is provided. Hutchinson v. United States, 838 F.2d 390, 394 (9th Cir. 1988).
19 The two-part test for deliberate indifference requires plaintiff to show (1) “a ‘serious medical
20 need’ by demonstrating that failure to treat a prisoner’s condition could result in further
21 significant injury or the ‘unnecessary and wanton infliction of pain,’” and (2) “the defendant’s
22 response to the need was deliberately indifferent.” Jett, 439 F.3d at 1096. A defendant does not
23 act in a deliberately indifferent manner unless the defendant “knows of and disregards an
24 excessive risk to inmate health or safety.” Farmer v. Brennan, 511 U.S. 825, 837 (1994).

25 Negligence allegations are insufficient. Deliberate indifference “requires more than
26 ordinary lack of due care.” Colwell v. Bannister, 763 F.3d 1060, 1066 (9th Cir. 2014) (quoting
27 Farmer, 511 U.S. at 835). The indifference to the prisoner’s medical needs must be substantial --
28 negligence, inadvertence, or differences in medical judgment or opinion do not rise to the level of

1 a constitutional violation. Toguchi v. Chung, 391 F.3d 1051, 1060 (9th Cir. 2004) (negligence
2 constituting medical malpractice is not sufficient to establish an Eighth Amendment violation).

3 Leave to Amend

4 The court finds the allegations in plaintiff's complaint so vague and conclusory that it is
5 unable to determine whether the current action is frivolous or fails to state a claim for relief. The
6 court determines that the complaint does not contain a short and plain statement as required by
7 Fed. R. Civ. P. 8(a)(2). Although the Federal Rules adopt a flexible pleading policy, a complaint
8 must give fair notice and state the elements of the claim plainly and succinctly. Jones v. Cmty.
9 Redev. Agency, 733 F.2d 646, 649 (9th Cir. 1984). Plaintiff must allege with at least some
10 degree of particularity overt acts which each defendant engaged in that support plaintiff's claim.
11 Id. Because plaintiff failed to comply with the requirements of Fed. R. Civ. P. 8(a)(2), the
12 complaint must be dismissed. However, plaintiff is granted leave to file an amended complaint.

13 If plaintiff chooses to amend the complaint, plaintiff must demonstrate how the conditions
14 about which he complains resulted in a deprivation of plaintiff's constitutional rights. See, e.g.,
15 West v. Atkins, 487 U.S. 42, 48 (1988). Also, the complaint must allege in specific terms how
16 each named defendant is involved. Rizzo v. Goode, 423 U.S. 362, 371 (1976). There can be no
17 liability under 42 U.S.C. § 1983 unless there is some affirmative link or connection between a
18 defendant's actions and the claimed deprivation. Rizzo, 423 U.S. at 371; May v. Enomoto, 633
19 F.2d 164, 167 (9th Cir. 1980). Furthermore, vague and conclusory allegations of official
20 participation in civil rights violations are not sufficient. Ivey v. Bd. of Regents, 673 F.2d 266,
21 268 (9th Cir. 1982).

22 Plaintiff must include all named defendants in the caption of the amended complaint. Fed.
23 R. Civ. P. 10(a). In the defendants' section of the complaint, plaintiff must again identify each
24 defendant and provide his or her official position and place of employment.

25 In addition, plaintiff is informed that the court cannot refer to a prior pleading in order to
26 make plaintiff's amended complaint complete. Local Rule 220 requires that an amended
27 complaint be complete in itself without reference to any prior pleading. This requirement exists
28 because, as a general rule, an amended complaint supersedes the original complaint. See Ramirez

1 v. County of San Bernardino, 806 F.3d 1002, 1008 (9th Cir. 2015) (“an ‘amended complaint
2 supersedes the original, the latter being treated thereafter as non-existent.” (internal citation
3 omitted)). Once plaintiff files an amended complaint, the original pleading no longer serves any
4 function in the case. Therefore, in an amended complaint, as in an original complaint, each claim
5 and the involvement of each defendant must be sufficiently alleged.

6 In accordance with the above, IT IS HEREBY ORDERED that:

7 1. Plaintiff’s request for leave to proceed in forma pauperis is granted.

8 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. Plaintiff
9 is assessed an initial partial filing fee in accordance with the provisions of 28 U.S.C.
10 § 1915(b)(1). All fees shall be collected and paid in accordance with this court’s order to the
11 Sacramento County Sheriff filed concurrently herewith.

12 3. Plaintiff’s complaint is dismissed.


13 4. Within thirty days from the date of this order, plaintiff shall complete the attached
14 Notice of Amendment and submit the following documents to the court:

- 15 a. The completed Notice of Amendment; and
16 b. An original of the Amended Complaint.

17 Plaintiff’s amended complaint shall comply with the requirements of the Civil Rights Act, the
18 Federal Rules of Civil Procedure, and the Local Rules of Practice. The amended complaint must
19 also bear the docket number assigned to this case and must be labeled “Amended Complaint.”

20 Failure to file an amended complaint in accordance with this order may result in the
21 dismissal of this action.

22 Dated: May 18, 2023

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24 _____
25 KENDALL J. NEWMAN
26 UNITED STATES MAGISTRATE JUDGE

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GURPREET SINGH,
Plaintiff,
v.
SACRAMENTO COUNTY SHERIFF, et
al.,
Defendants.

No. 2:23-cv-0237 KJN P

NOTICE OF AMENDMENT

Plaintiff hereby submits the following document in compliance with the court's order
filed _____.

DATED: _____ Amended Complaint

Plaintiff