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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

TREVOR ALLEN HOBAUGH,

Plaintiff,

v.

AMADOR COUNTY SHERIFF
DEPARTMENT, et al.,

Defendants.

No. 2:24-CV-1078-DMC-P

ORDER

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the Court is Plaintiff’s first amended complaint, ECF No. 8.

The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. See 28 U.S.C. § 1915A(a). This provision also applies if the plaintiff was incarcerated at the time the action was initiated even if the litigant was subsequently released from custody. See Olivas v. Nevada ex rel. Dep’t of Corr., 856 F.3d 1281, 1282 (9th Cir. 2017). The Court must dismiss a complaint or portion thereof if it: (1) is frivolous or malicious; (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief from a defendant who is immune from such relief. See 28 U.S.C. § 1915A(b)(1), (2). Moreover, the Federal Rules of Civil Procedure require that complaints contain a “. . . short and plain statement of the claim showing that the pleader is

1 entitled to relief.” Fed. R. Civ. P. 8(a)(2). This means that claims must be stated simply,
2 concisely, and directly. See McHenry v. Renne, 84 F.3d 1172, 1177 (9th Cir. 1996) (referring to
3 Fed. R. Civ. P. 8(e)(1)). These rules are satisfied if the complaint gives the defendant fair notice
4 of the plaintiff’s claim and the grounds upon which it rests. See Kimes v. Stone, 84 F.3d 1121,
5 1129 (9th Cir. 1996). Because Plaintiff must allege with at least some degree of particularity
6 overt acts by specific defendants which support the claims, vague and conclusory allegations fail
7 to satisfy this standard. Additionally, it is impossible for the Court to conduct the screening
8 required by law when the allegations are vague and conclusory.

9 10 **I. BACKGROUND**

11 **A. Procedural History**

12 Plaintiff initiated this action with a pro se complaint filed on April 10 ,2024. See
13 ECF No. 1. Plaintiff named the Amador County Sheriff’s Department and Deputy Sheriff
14 Jennifer Trantham as defendants. See id. On May 22, 2024, the Court issued an order addressing
15 the sufficiency of Plaintiff’s complaint. See ECF No. 6. The Court determined that Plaintiff
16 failed to allege sufficient facts to establish an Eighth Amendment claim against Defendant
17 Trantham based on disregard for Plaintiff’s safety arising from unspecified statements made by
18 Trantham. See id. Specifically, the Court stated that it was impossible to evaluate whether
19 Plaintiff’s allegations satisfy the elements of an Eighth Amendment safety claim because Plaintiff
20 had not described the statements allegedly made by Trantham. See id. The Court also found that
21 Plaintiff failed to state a claim against Defendant Amador County Sheriff’s Department because
22 Plaintiff did not allege implementation of a custom or policy which resulted in the claimed Eighth
23 Amendment violation. See id. Plaintiff’s original complaint was dismissed with leave to amend.
24 See id.

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1 responsible for the acts of its employees or officials under a respondeat superior theory of
2 liability. See Bd. of County Comm'rs v. Brown, 520 U.S. 397, 403 (1997). Thus, municipal
3 liability must rest on the actions of the municipality, and not of the actions of its employees or
4 officers. See id. To assert municipal liability, therefore, the plaintiff must allege that the
5 constitutional deprivation complained of resulted from a policy or custom of the municipality.
6 See id.

7 Here, Plaintiff continues to name the Amador County Sheriff's Department as a
8 defendant. Plaintiff, however, as with the original complaint, does not allege any facts to indicate
9 that Defendant Trantham's conduct was the result of a policy or custom of the Amador County
10 Sheriff's Department. The Court will grant Plaintiff one final opportunity to amend as to this
11 defendant.

12 **B. Causal Link – Defendant Stone**

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

24 Plaintiff names Captain Stone as a defendant. Plaintiff has not, however, alleged
25 any facts specific to Captain Stone. Plaintiff will be provided leave to amend.

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III. CONCLUSION

Because it is possible that the deficiencies identified in this order may be cured by amending the complaint, Plaintiff is entitled to leave to amend. See Lopez v. Smith, 203 F.3d 1122, 1126, 1131 (9th Cir. 2000) (en banc). Plaintiff is informed that, as a general rule, an amended complaint supersedes the original complaint. See Ferdik v. Bonzelet, 963 F.2d 1258, 1262 (9th Cir. 1992). Therefore, if Plaintiff amends the complaint, the Court cannot refer to the prior pleading in order to make Plaintiff's amended complaint complete. See Local Rule 220. An amended complaint must be complete in itself without reference to any prior pleading. See id.

If Plaintiff chooses to amend the complaint, Plaintiff must demonstrate how the conditions complained of have resulted in a deprivation of Plaintiff's constitutional rights. See Ellis v. Cassidy, 625 F.2d 227 (9th Cir. 1980). The complaint must allege in specific terms how each named defendant is involved and must set forth some affirmative link or connection between each defendant's actions and the claimed deprivation. See May v. Enomoto, 633 F.2d 164, 167 (9th Cir. 1980); Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978).

Because the complaint appears to otherwise state cognizable claims, if no amended complaint is filed within the time allowed therefor, the Court will issue findings and recommendations that the claims identified herein as defective be dismissed, as well as such further orders as are necessary for service of process as to the cognizable claims.

Accordingly, IT IS HEREBY ORDERED that Plaintiff may file a second amended complaint within 30 days of the date of service of this order.

Dated: August 27, 2024



DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE