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

BOBBY LEE COLLINS,  
  
                                  Plaintiff,  
  
                  v.  
  
VEACH, et al.,  
  
                                  Defendants.

No. 2:24-CV-1369-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 original complaint, ECF No. 1.

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 entitled to relief.” Fed. R. Civ. P. 8(a)(2). This means that claims must be stated simply,

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

8 Plaintiff names the following as defendants: (1) Veach; (2) C. York; (3) Manreno;  
9 and (4) J. Marfil. See ECF No. 1, pgs. 1-2. All defendants are alleged to be current or former  
10 correctional officers at California State Prison – Sacramento. See id. Generally, Plaintiff alleges  
11 violations of his rights under the Americans with Disabilities Act. See id. at 1. It appears that  
12 Plaintiff, who is hearing impaired, claims prison officials are not providing him with equipment  
13 to allow him adequate use of the telephones. See id. at 3-6.

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

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1 Here, Plaintiff does not allege facts linking any of the named defendants to a  
2 violation of Plaintiff's rights under the Americans with Disabilities Act. Plaintiff only generally  
3 mentions the four named defendants, see ECF No. 1, pg. 3, but does not explain what each did or  
4 did not do which caused a violation of Plaintiff's rights. Plaintiff will be provided an opportunity  
5 to amend the complaint to allege facts specific to the named defendants.

6 Because it is possible that the deficiencies identified in this order may be cured by  
7 amending the complaint, Plaintiff is entitled to leave to amend prior to dismissal of the entire  
8 action. See Lopez v. Smith, 203 F.3d 1122, 1126, 1131 (9th Cir. 2000) (en banc). Plaintiff is  
9 informed that, as a general rule, an amended complaint supersedes the original complaint. See  
10 Ferdik v. Bonzelet, 963 F.2d 1258, 1262 (9th Cir. 1992). Thus, following dismissal with leave to  
11 amend, all claims alleged in the original complaint which are not alleged in the amended  
12 complaint are waived. See King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987). Therefore, if  
13 Plaintiff amends the complaint, the Court cannot refer to the prior pleading in order to make  
14 Plaintiff's amended complaint complete. See Local Rule 220. An amended complaint must be  
15 complete in itself without reference to any prior pleading. See id.

16 If Plaintiff chooses to amend the complaint, Plaintiff must demonstrate how the  
17 conditions complained of have resulted in a deprivation of Plaintiff's constitutional rights. See  
18 Ellis v. Cassidy, 625 F.2d 227 (9th Cir. 1980). The complaint must allege in specific terms how  
19 each named defendant is involved and must set forth some affirmative link or connection between  
20 each defendant's actions and the claimed deprivation. See May v. Enomoto, 633 F.2d 164, 167  
21 (9th Cir. 1980); Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978).

22 Finally, Plaintiff is warned that failure to file an amended complaint within the  
23 time provided in this order may be grounds for dismissal of this action. See Ferdik, 963 F.2d at  
24 1260-61; see also Local Rule 110. Plaintiff is also warned that a complaint which fails to comply  
25 with Rule 8 may, in the Court's discretion, be dismissed with prejudice pursuant to Rule 41(b).  
26 See Nevijel v. North Coast Life Ins. Co., 651 F.2d 671, 673 (9th Cir. 1981).

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Accordingly, IT IS HEREBY ORDERED as follows:

1. Plaintiff's original complaint is dismissed with leave to amend.
2. Plaintiff shall file a first amended complaint within 30 days of the date of service of this order.

**Dated: June 5, 2024**



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DENNIS M. COTA  
UNITED STATES MAGISTRATE JUDGE