

1 v. E.I. DuPont de Nemours & Co., 335 U.S. 331, 339 (1948), the applicant must nonetheless
2 show that he is “unable to pay such fees or give security therefor.” 28 U.S.C. § 1915(a). If the
3 court determines “the allegation of poverty is untrue,” the court “shall dismiss the case.” 28
4 U.S.C. § 1915(e)(2).

5 The court has conducted the required review and will grant plaintiff’s motion to proceed
6 in forma pauperis.

7 **II. Screening Requirement**

8 Pursuant to 28 U.S.C. § 1915(e), the court must screen every in forma pauperis
9 proceeding, and must order dismissal of the case if it is “frivolous or malicious,” “fails to state a
10 claim on which relief may be granted,” or “seeks monetary relief against a defendant who is
11 immune from such relief.” 28 U.S.C. § 1915(e)(2)(B); Lopez v. Smith, 203 F.3d 1122, 1126-27
12 (2000). A claim is legally frivolous when it lacks an arguable basis either in law or in fact.
13 Neitzke v. Williams, 490 U.S. 319, 325 (1989). The court may dismiss a claim as frivolous if it is
14 based on an indisputably meritless legal theory or where the factual contentions are clearly
15 baseless. Id. at 327.

16 Rule 8(a)(2) of the Federal Rules of Civil Procedure requires a short and plain statement
17 of the claim that shows the pleader is entitled to relief. Bell Atlantic Corp. v. Twombly, 550 U.S.
18 544, 555 (2007). In order to state a cognizable claim, a complaint must contain more than “naked
19 assertions” or “a formulaic recitation of the elements of a cause of action;” it must contain factual
20 allegations sufficient “to raise a right to relief above the speculative level.” Id. The facts alleged
21 must “give the defendant fair notice of what the... claim is and the grounds upon which it rests.”
22 Erickson v. Pardus, 551 U.S. 89, 93 (2007) (quoting Twombly, 550 U.S. at 555). In reviewing a
23 complaint under this standard, the court accepts as true the allegations of the complaint and
24 construes the pleading in the light most favorable to the plaintiff. See id.; Scheuer v. Rhodes, 416
25 U.S. 232, 236 (1974).

26 **III. Allegations in the Complaint**

27 Plaintiff alleges that conditions of confinement at the Sacramento County Jail violated his
28 Eighth Amendment rights to be free from cruel and unusual punishment when he was placed in a

1 “suicide cell” that was “covered in feces” in October of 2023. (ECF No. 1 at 5.) Plaintiff also
2 alleges that between January 13, 2024, and February 14, 2024, he was “deprived of hot food” and
3 his “food was stolen.” (*Id.*) Plaintiff names the Sacramento County Sheriff’s Department and
4 “Vera Deputy Sheriff” as defendants. Plaintiff does not say whether he was a pretrial detainee or
5 a sentenced prisoner at the time of the alleged incidents.¹

6 **IV. Discussion**

7 Plaintiff’s complaint fails to contain sufficient factual allegations to state a claim. First,
8 plaintiff fails to state whether he was a pretrial detainee or a sentenced prisoner at the time of the
9 allegations, necessary information for a complete legal analysis.² Second, although he names the
10 Sacramento County Sheriff’s Department as a defendant, plaintiff does not allege any county
11 policy, custom, or practice that caused his unconstitutional conditions of confinement. Third,
12 although plaintiff names “Vera Deputy Sheriff” as a defendant, he does not include any details
13 about if, and how, she was involved in either incident. Finally, plaintiff does not provide
14 information regarding who was responsible for the condition of his food, nor who allegedly stole
15 his food.

16 **V. Relevant Legal Authority**

17 The court provides the following to assist plaintiff in understanding the deficiencies of his
18 complaint.

19 a. Sacramento County Sheriff’s Department

20 Municipalities cannot be held vicariously liable under § 1983 for the actions of their
21 employees. Monell v. Dep’t of Social Services, 436 U.S. 585 at 691, 694 (1978). “Instead, it is
22 when execution of a government’s policy or custom, whether made by its lawmakers or by those
23 whose edicts or acts may fairly be said to represent official policy, inflicts the injury that the
24 government as an entity is responsible under § 1983.” *Id.* at 694. Municipalities are considered
25 “persons” under 42 U.S.C. § 1983 and therefore may be liable for causing a constitutional

26 ¹ A pretrial detainee’s rights arise under the Fourteenth Amendment’s Due Process Clause
27 whereas a convicted prisoner’s rights arise under the Eighth Amendment’s Cruel and Unusual
28 Punishments Clause. See Bell v. Wolfish, 441 U.S. 520, 535 (1979)

1 deprivation. Monell, 436 U.S. 658, 690 (1978); Long v. County of Los Angeles, 442 F.3d 1178,
2 1185 (9th Cir.2006). To properly plead a Monell claim based on an unconstitutional custom,
3 practice, or policy, plaintiff must demonstrate that (1) he possessed a constitutional right of which
4 he was deprived; (2) the municipality had a policy; (3) such policy amounts to deliberate
5 indifference to plaintiff's constitutional right; and (4) the policy is the moving force behind the
6 constitutional violation. See Plumeau v. Sch. Dist. No. 40 Cnty. of Yamhill, 130 F.3d 432, 438
7 (9th Cir. 1997). The municipal policy at issue must be the result of a “longstanding practice or
8 custom which constitutes the standard operating procedure of the local government entity.” Price
9 v. Sery, 513 F.3d 962, 966 (9th Cir. 2008) (quoting Ulrich v. City & Cnty. of San Francisco, 308
10 F.3d 968, 984-85 (9th Cir. 2002)).

11 b. Vera Deputy Sheriff

12 There can be no liability under 42 U.S.C. § 1983 unless there is some affirmative link or
13 connection between a defendant’s actions and the claimed deprivation. Rizzo v. Goode, 423 U.S.
14 362 (1976). Furthermore, vague and conclusory allegations of official participation in civil rights
15 violations are not sufficient. Ivey v. Board of Regents, 673 F.2d 266, 268 (9th Cir. 1982).

16 c. Conditions in the Cell

17 Conditions of confinement claims raised by pretrial detainees are analyzed under the
18 Fourteenth Amendment's Due Process Clause, rather than under the Eighth Amendment. Bell v.
19 Wolfish, 441 U.S. 520, 535 n. 16 (1979); Frost v. Agnos, 152 F.3d 1124, 1128 (9th Cir.1998).
20 Nevertheless, comparable standards apply, with Fourteenth Amendment analysis borrowing from
21 Eighth Amendment standards. Frost, 152 F.3d at 1128. “Jail officials have a duty to ensure that
22 detainees are provided adequate shelter, food, clothing, sanitation, medical care, and personal
23 safety.” Shorter v. Baca, 895 F.3d 1176, 1185 (9th Cir. 2018).

24 d. Food

25 The Eighth Amendment's prohibition against cruel and unusual punishment imposes a
26 duty on prison officials to “provide humane conditions of confinement.” Farmer v. Brennan, 511
27 U.S. 825, 832 (1994). “[P]rison officials must ensure that inmates receive adequate food,
28 clothing, shelter, and medical care.” Id. To show a violation of the Eighth Amendment premised

1 upon a denial of food, a prisoner must show (1) an act or omission of a prison official resulted in
2 the denial of “the minimal civilized measure of life's necessities,” *id.* at 834 (internal quotation
3 omitted), and (2) the denial was the result of at least deliberate indifference to a substantial risk
4 that the deprivation would occur. *Id.* at 847. Generally speaking, the Eighth Amendment requires
5 that inmates receive “food that is adequate to maintain health.” *LeMaire v. Mass*, 12 F.3d 1444,
6 1456 (9th Cir. 1993). “[P]rison officials must ensure that inmates receive adequate food,
7 clothing, shelter, and medical care.” *Id.*

8 **VI. Leave to Amend**

9 The court finds the allegations in plaintiff’s complaint so vague and conclusory that it is
10 unable to determine whether the current action is frivolous or fails to state a claim for relief. The
11 complaint must be dismissed, but plaintiff is granted leave to file an amended complaint. *See*
12 *Lucas v. Dep’t of Corr.*, 66 F.3d 245, 248 (9th Cir. 1995) (“Unless it is absolutely clear that no
13 amendment can cure the defect... a pro se litigant is entitled to notice of the complaint’s
14 deficiencies and an opportunity to amend prior to dismissal of the action.”).

15 If plaintiff chooses to amend the complaint, plaintiff must demonstrate how the conditions
16 about which he complains resulted in a deprivation of plaintiff’s constitutional rights. *See e.g.*,
17 *West v. Atkins*, 487 U.S. 42, 48 (1988). Also, the complaint must allege in specific terms how
18 each named defendant is involved. *Rizzo v. Goode*, 423 U.S. 362, 371 (1976). There can be no
19 liability under 42 U.S.C. § 1983 unless there is some affirmative link or connection between a
20 defendant’s actions and the claimed deprivation. *Rizzo*, 423 U.S. at 371; *May v. Enomoto*, 633
21 F.2d 164, 167 (9th Cir. 1980). Furthermore, vague, and conclusory allegations of official
22 participation in civil rights violations are not sufficient. *Ivey v. Bd. of Regents*, 673 F.2d 266, 268
23 (9th Cir. 1982).

24 An amended complaint should be titled “First Amended Complaint” and bear the case
25 number of this order. In addition, plaintiff is informed that the court cannot refer to a prior
26 pleading in order to make plaintiff’s amended complaint complete. Local Rule 220 requires that
27 an amended complaint be complete in itself without reference to any prior pleading. This
28 requirement exists because, as a general rule, an amended complaint supersedes the original

1 complaint. See Ramirez v. County of San Bernardino, 806 F.3d 1002, 1008 (9th Cir. 2015) (“an
2 ‘amended complaint supersedes the original, the latter being treated thereafter as non-existent.’”
3 (internal citation omitted)). Once plaintiff files an amended complaint, the original pleading no
4 longer serves any function in the case.

5 **VII. Plain Language Summary for Pro Se Party**

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

8 Your complaint is being dismissed because it fails to state a claim regarding confinement
9 in an unsanitary cell or the food you received. However, you are being given the chance to fix the
10 problems identified in this order by filing an amended complaint. If you wish to file an amended
11 complaint you must clearly identify the people involved, and the specific actions or inactions they
12 undertook to support your allegations.

13 **VIII. Conclusion**

14 In accordance with the above, IT IS HEREBY ORDERED as follows:

- 15 1. Plaintiff’s request to proceed in forma pauperis (ECF No. 2) is GRANTED.
- 16 2. Plaintiff’s complaint (ECF No. 1) is DISMISSED with leave to amend.
- 17 3. Plaintiff is granted thirty days from the date of service of this order to file an amended
18 complaint that complies with the requirements of the Federal Rules of Civil Procedure
19 and the Local Rules of Practice; failure to file an amended complaint in accordance
20 with this order will result in a recommendation that this action be dismissed.

21 Dated: March 12, 2025

22 
23 _____
24 CAROLYN K. DELANEY
25 UNITED STATES MAGISTRATE JUDGE

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