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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOHN E. JAMES, III,	)	No. C 07-6193 JSW (PR)
Plaintiff,	)	
v.	)	<b>ORDER OF DISMISSAL WITH</b>
	)	<b>LEAVE TO AMEND</b>
MIKE EVANS, Warden, et al,	)	
Defendants.	)	(Docket No. 10)

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Plaintiff, currently incarcerated at the California Correctional Institution in Tehachapi, California, has filed a civil rights complaint and amended complaint in this matter. Plaintiff has filed a motion to proceed *in forma pauperis* (docket no. 4), which was previously GRANTED. In this order the Court reviews Plaintiff’s complaint pursuant to 28 U.S.C. § 1915A and dismisses the amended complaint with leave to amend within thirty days.

**DISCUSSION**

As a preliminary matter, Plaintiff has filed an extremely lengthy amended complaint with many attachments which includes apparently unrelated claims involving 37 different named Defendants and ten “Doe” Defendants. The claims in the complaint are wide-ranging and include claims of deliberate indifference to Plaintiff’s health and safety, retaliation, First Amendment violations, filing of false charges against Plaintiff, interference with his mail, cruel and unusual punishment and conspiracy. However, Plaintiff has failed to clearly identify which claims relate to which Defendants and to set



1 the conduct of each individual Defendant that he asserts is responsible for a  
2 constitutional violation. Plaintiff must specifically identify what each named Defendant  
3 did or did not do in order to state a claim with regard to each separate claim. If he  
4 contends any Defendant is liable for more than one of the claimed constitutional  
5 violations, he must specify that. As such, Plaintiff will be granted leave to amend to  
6 allege specifics.

7 In his amended complaint, Plaintiff must establish legal liability of each person  
8 for the claimed violation of his rights. Liability may be imposed on an individual  
9 defendant under section 1983 if the plaintiff can show that the defendant proximately  
10 caused the deprivation of a federally protected right. *See Leer v. Murphy*, 844 F.2d 628,  
11 634 (9th Cir. 1988); *Harris v. City of Roseburg*, 664 F.2d 1121, 1125 (9th Cir. 1981). A  
12 person deprives another of a constitutional right within the meaning of section 1983 if he  
13 does an affirmative act, participates in another's affirmative act or omits to perform an act  
14 which he is legally required to do, that causes the deprivation of which the plaintiff  
15 complains. *See Leer*, 844 F.2d at 633; *see, e.g., Robins v. Meecham*, 60 F.3d 1436, 1442  
16 (9th Cir. 1995) (prison official's failure to intervene to prevent 8th Amendment violation  
17 may be basis for liability). Sweeping conclusory allegations will not suffice; the plaintiff  
18 must instead "set forth specific facts as to each individual defendant's" deprivation of  
19 protected rights. *Leer*, 844 F.2d at 634.

20 With regard to the supervisory employees named, Plaintiff should be mindful that  
21 a supervisor may be liable under § 1983 only upon a showing of (1) personal  
22 involvement in the constitutional deprivation or (2) a sufficient causal connection  
23 between the supervisor's wrongful conduct and the constitutional violation. *Redman v.*  
24 *County of San Diego*, 942 F.2d 1435, 1446 (9th Cir. 1991) (en banc). A supervisor  
25 therefore generally "is only liable for constitutional violations of his subordinates if the  
26 supervisor participated in or directed the violations, or knew of the violations and failed  
27

1 to act to prevent them.” *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989).

2 Plaintiff might be able to state a claim upon which relief may be granted if he can  
3 in good faith allege facts which clearly and briefly identify the injury he suffered, or  
4 continues to suffer, personally as a result of the alleged actions of individual Defendants;  
5 identify specifically and link to his allegations to the responsible parties. If Plaintiff  
6 wishes to proceed against “Doe” Defendants, he must also identify their actions within  
7 the claims and the basis for liability of each one. Without this basic information, the  
8 complaint cannot proceed. The complaint need not be long. In fact, a brief and clear  
9 statement with regard to each claim listing each Defendant’s actions regarding that claim  
10 is preferable. Accordingly, the complaint is DISMISSED WITH LEAVE TO AMEND.  
11 Plaintiff will be provided with thirty days in which to amend to correct the deficiencies  
12 in his complaint.

13 Plaintiff’s third motion for a preliminary injunction is DENIED for the reasons set  
14 forth in this Court’s order of September 30, 2008 (docket no. 10).

### 15 CONCLUSION

16 For the foregoing reasons and for good cause shown,

17 1. The complaint is DISMISSED WITH LEAVE TO AMEND, as indicated  
18 above. Plaintiff shall file an amended complaint within *thirty days from the date of this*  
19 *order* in which he asserts factual allegations against all Defendants named therein. The  
20 amendment must include the caption and civil case number used in this order and the  
21 words “COURT ORDERED AMENDED COMPLAINT” on the first page. Failure to  
22 amend within the designated time will result in dismissal of the complaint.

23 2. Plaintiff is advised that an amended complaint supersedes the original  
24 complaint. “[A] plaintiff waives all causes of action alleged in the original complaint  
25 which are not alleged in the amended complaint.” *London v. Coopers & Lybrand*, 644  
26 F.2d 811, 814 (9th Cir. 1981). Defendants not named in an amended complaint are no  
27

1 longer defendants. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir.), *cert. denied*,  
2 506 U.S. 915 (1992).

3 3. It is Plaintiff's responsibility to prosecute this case. Plaintiff must keep the  
4 Court informed of any change of address and must comply with the Court's orders in a  
5 timely fashion. Failure to do so may result in the dismissal of this action under Federal  
6 Rule of Civil Procedure 41(b).

7 IT IS SO ORDERED.

8 DATED: October 3, 2008

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11 JEFFREY S. WHITE  
12 United States District Judge  
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1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA  
4

5 JOHN E. JAMES III,  
6 Plaintiff,  
7

Case Number: CV07-06193 JSW

**CERTIFICATE OF SERVICE**

8 v.

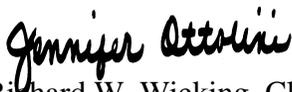
9 MIKE S. EVANS et al,  
10 Defendant.  
\_\_\_\_\_ /

11 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District  
12 Court, Northern District of California.

13 That on October 3, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said  
14 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing  
15 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery  
16 receptacle located in the Clerk's office.

17 John E. James P-13474  
18 P.O. Box 1906  
19 Tehachapi, CA 93581

20 Dated: October 3, 2008

  
Richard W. Wieking, Clerk  
By: Jennifer Ottolini, Deputy Clerk

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