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

ERIC CHARLES RODNEY K’NAPP,)
) Plaintiff,
) v.
JAMES TILTON, et al,)
) Defendants.

No. C 08-0719 JSW (PR)
**ORDER OF DISMISSAL WITH
LEAVE TO AMEND**
(Docket Nos. 10, 12, 13)

Plaintiff, currently incarcerated at the Sierra Conservation Center in Jamestown, California, has filed a civil rights complaint. Plaintiff’s motion to proceed *in forma pauperis* (docket no. 2), was previously GRANTED. In this order, the Court reviews Plaintiff’s second amended complaint pursuant to 28 U.S.C. § 1915A and dismisses the amended complaint with leave to amend within thirty days. Plaintiff was previously granted leave to file an amended complaint and did so on July 11, 2008.

On August 19, 2008, Plaintiff filed a notice of change of address from Salinas Valley State Prison (SVSP) to the Sierra Conservation Center and a request for injunctive relief, given a detailed two month period when Plaintiff alleges SVSP officials denied him access to a medically necessary typewriter (docket no. 10). Given that Plaintiff’s request was premised on the actions of those officials, the request is DENIED as moot, now that Plaintiff is no longer incarcerated there.

Plaintiff subsequently filed a motion seeking to further amend the complaint and

1 an extension of time in which to do so (docket nos. 12, 13). These motions are now
2 GRANTED (docket nos. 12, 13). Thereafter, on September 10, 2008, Plaintiff filed a
3 second amended complaint (labeled by him as “First Amended Complaint”) (docket no.
4 14), which is now before the Court for review.

5 DISCUSSION

6 As a preliminary matter, Plaintiff has filed an extremely lengthy complaint
7 involving 109 different Defendants, 35 of whom are identified as “Doe” Defendants and
8 many unrelated claims, labeled as claims one through five, comprised of 53 separate sub-
9 claims, some apparently related to each other and others not. The claims in the
10 complaint are wide-ranging and include alleged violations of Plaintiff’s rights regarding
11 incoming mail, outgoing mail, delays in the distribution and sending of his mail, theft
12 and/or withholding of Plaintiff’s authorized package, retaliation, confidential
13 correspondence with prison officials, denial of visitation, visitation restrictions,
14 restrictions on communications in the visitor’s room with anyone other than the visitor,
15 SVSP’s practice of prohibiting prisoners from wearing allowed clothing during winter
16 visits, failure to adequately accommodate Plaintiff’s disability in the provision of a
17 typewriter, denial of adequate accommodation in the law library, denial of adequate time
18 or copies by the law library staff, denial of his medication, retaliatory disciplinary action
19 and various claims regarding interference with Plaintiff’s ability to use the prisoner
20 administrative grievance system. However, because these claims are not properly joined,
21 Plaintiff’s complaint cannot proceed. Because the Court cannot determine on which of
22 the above claims Plaintiff wishes to proceed, the Court now dismisses the complaint with
23 leave to amend within thirty (30) days as set forth below.

24 I Standard of Review

25 Federal courts must engage in a preliminary screening of cases in which prisoners
26 seek redress from a governmental entity or officer or employee of a governmental entity.
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1 28 U.S.C. § 1915A(a). The Court must identify cognizable claims or dismiss the
2 complaint, or any portion of the complaint, if the complaint “is frivolous, malicious, or
3 fails to state a claim upon which relief may be granted,” or “seeks monetary relief from a
4 defendant who is immune from such relief.” *Id.* § 1915A(b). Pro se pleadings must be
5 liberally construed. *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir.
6 1990).

7 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two elements:
8 (1) that a right secured by the Constitution or laws of the United States was violated, and
9 (2) that the alleged violation was committed by a person acting under the color of state
10 law. *West v. Atkins*, 487 U.S. 42, 48 (1988).

11 II Legal Claims

12 Plaintiff’s complaint includes a lengthy recitation of facts and a separate list of
13 over one hundred separate Defendants, along with 5 claims and fifty three sub-claims,
14 which involve different Defendants and different events. These claims are not properly
15 joined. Federal Rule of Civil Procedure Rule 20 provides,

16 All persons. . . may be joined in one action as defendants if there is
17 asserted against them jointly, severally, or in the alternative, any right to
18 relief arising out of the same transaction, occurrence or series of
19 transactions or occurrences *and* if any question of law or fact common to
all defendants will arise in the action.

20 F. R. Civ. P. 20(a) (emphasis added). Further, Rule 21 provides that where parties are
21 misjoined, they may be “dropped or added by order of the court . . . on such terms as are
22 just. F. R. Civ. P. 21; *Coughlin v. Rogers*, 130 F.3d 1348, 1351 (9th Cir. 1997).

23 In this case, Plaintiff asserts many unrelated claims against different Defendants.
24 This Court is unable to determine which of the many claims is Plaintiff’s primary
25 complaint. Therefore, the Court now dismisses the complaint with leave to amend.

26 The amended complaint must comply with Federal Rule of Civil Procedure 20(a)
27 concerning joinder of claims and defendants. Rule 20(a) requires that a plaintiff cannot
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1 assert a grab-bag of unrelated claims against different defendants. In his amended
2 complaint, Plaintiff may only allege claims that (a) arise out of the same transaction,
3 occurrence, or series of transactions or occurrences and (b) present questions of law or
4 fact common to all defendants named therein. Claims that do not satisfy Rule 20(a) must
5 be alleged in separate complaints filed in separate actions.

6 In filing his amended complaint, Plaintiff should also comply with the appropriate
7 rules regarding civil complaints. Rule 8(d) requires that each averment of a pleading be
8 “simple, concise, and direct,” and may be the basis for dismissal. *McHenry v. Renne*, 84
9 F.3d 1172, 1179 (9th Cir. 1996) (affirming dismissal of complaint that was
10 “argumentative, prolix, replete with redundancy, and largely irrelevant”).

11 Plaintiff’s complaint fails to provide a short and plain and separate statement
12 regarding each claim: the specifics regarding the mistreatment he suffered, how it
13 violated his constitutional rights, whether he suffered any injury as a result, and the
14 conduct of each individual Defendant that he asserts is responsible for a constitutional
15 violation. Plaintiff must specifically identify what each named Defendant did or did not
16 do in order to state a claim with regard to each separate claim.

17 In his amended complaint, Plaintiff must establish legal liability of each person
18 for the claimed violation of his rights. Liability may be imposed on an individual
19 defendant under section 1983 if the plaintiff can show that the defendant proximately
20 caused the deprivation of a federally protected right. *See Leer v. Murphy*, 844 F.2d 628,
21 634 (9th Cir. 1988); *Harris v. City of Roseburg*, 664 F.2d 1121, 1125 (9th Cir. 1981). A
22 person deprives another of a constitutional right within the meaning of section 1983 if he
23 does an affirmative act, participates in another’s affirmative act or omits to perform an
24 act which he is legally required to do, that causes the deprivation of which the plaintiff
25 complains. *See Leer*, 844 F.2d at 633; *see, e.g., Robins v. Meecham*, 60 F.3d 1436, 1442
26 (9th Cir. 1995) (prison official’s failure to intervene to prevent 8th Amendment violation
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1 may be basis for liability). Sweeping conclusory allegations will not suffice; the plaintiff
2 must instead "set forth specific facts as to each individual defendant's" deprivation of
3 protected rights. *Leer*, 844 F.2d at 634.

4 With regard to the supervisory employees named, Plaintiff should be mindful that
5 a supervisor may be liable under § 1983 only upon a showing of (1) personal
6 involvement in the constitutional deprivation or (2) a sufficient causal connection
7 between the supervisor's wrongful conduct and the constitutional violation. *Redman v.*
8 *County of San Diego*, 942 F.2d 1435, 1446 (9th Cir. 1991) (en banc). A supervisor
9 therefore generally "is only liable for constitutional violations of his subordinates if the
10 supervisor participated in or directed the violations, or knew of the violations and failed
11 to act to prevent them." *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989).

12 The complaint need not be long. In fact, a brief and clear statement with regard to
13 each claim listing each Defendant's actions regarding that claim is preferable. Plaintiff
14 should state his claims simply and need not present a lengthy history unrelated to the
15 actions he complains about. The amended complaint should comply with Rule 8 and
16 provides a brief and coherent recitation of his claims regarding only those Defendants
17 who are properly joined. Accordingly, the complaint is DISMISSED WITH LEAVE TO
18 AMEND. Plaintiff will be provided with thirty days in which to amend to correct the
19 deficiencies in his complaint.

20 CONCLUSION

21 For the foregoing reasons and for good cause shown,

22 1. The complaint is DISMISSED WITH LEAVE TO AMEND, as indicated
23 above. Plaintiff shall file an amended complaint within *thirty (30) days from the date of*
24 *this order* in which he asserts factual allegations against all Defendants named therein.
25 The amendment must include the caption and civil case number used in this order and
26 the words "COURT ORDERED AMENDED COMPLAINT" on the first page. Failure
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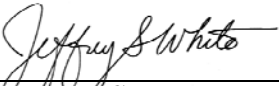
1 to amend within the designated time will result in dismissal of the complaint.

2 2. Plaintiff is advised that an amended complaint supersedes the original
3 complaint. "[A] plaintiff waives all causes of action alleged in the original complaint
4 which are not alleged in the amended complaint." *London v. Coopers & Lybrand*, 644
5 F.2d 811, 814 (9th Cir. 1981). Defendants not named in an amended complaint are no
6 longer defendants. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir.), *cert. denied*,
7 506 U.S. 915 (1992).

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

12 IT IS SO ORDERED.

13 DATED: November 13, 2008

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

5 ERIC C R KNAPP et al,
6 Plaintiff,
7

Case Number: CV08-00719 JSW

CERTIFICATE OF SERVICE

8 v.


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

17 Eric Charles Rodney Knapp
18 J-10618
19 Sierra Conservation Center
5150 O'Byrnes Ferry Road
Jamestown, CA 95327

20 Dated: November 13, 2008


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