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5 UNITED STATES DISTRICT COURT
6 NORTHERN DISTRICT OF CALIFORNIA
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8 JOSEPH L. NEALE, JR.,

No. C 08-755 MHP (pr)

9 Plaintiff,

**ORDER OF DISMISSAL WITH
LEAVE TO AMEND**

10 v.

11 ROBERT HOREL, warden; et al.,

12 Defendants.
13 _____/

14 **INTRODUCTION**

15 Joseph L. Neale, Jr., an inmate at the California State Prison in Corcoran, filed a pro
16 se civil rights action under 42 U.S.C. § 1983. His complaint is now before the court for
17 review pursuant to 28 U.S.C. §1915A.

18 **BACKGROUND**

19 Neale alleges the following in his complaint: The psychotropic medications for
20 inmate Ricky Harris were allowed to lapse for several months at Pelican Bay State Prison
21 following his return from San Quentin in November 2006. Harris became Neale's cellmate
22 on February 26, 2007. Harris began acting in a very disturbing manner and two days later
23 went into a psychotic rage and attacked Neale. Neale writes: "It is my contention that
24 Warden Horel and Dr. McCarthy engaged in gross neglect on the prison's part for failure to
25 properly institute and implement procedures that insure that psychotropic medications are
26 appropriately restored to all mentally ill i/ms in a timely manner upon their return to PBSP.
27 This kind of gross neglect and irresponsibility is a serious problem that needs to be addressed
28 throughout CDCR." Complaint, p. 3.

1 plaintiff's constitutional rights.

2 **CONCLUSION**

3 The complaint fails to state a claim upon which relief may be granted and is
4 DISMISSED with leave to amend. The amended complaint must be filed no later than
5 **October 24, 2008**, and must include the caption and civil case number used in this order and
6 the words AMENDED COMPLAINT on the first page. Plaintiff is cautioned that his
7 amended complaint must be a complete statement of his claims and will supersede existing
8 pleadings. See London v. Coopers & Lybrand, 644 F.2d 811, 814 (9th Cir. 1981) ("a
9 plaintiff waives all causes of action alleged in the original complaint which are not alleged in
10 the amended complaint.") Failure to file the amended complaint by the deadline will result
11 in dismissal of this action.

12 IT IS SO ORDERED.

13 Dated: September 23, 2008

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16 Marilyn Hall Patel
17 United States District Judge
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