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

EARNEST C. WOODS,)	No. C 10-1859 JSW (PR)
)	
Plaintiff,)	ORDER OF DISMISSAL WITH
)	LEAVE TO AMEND
v.)	
)	
BEN CURRY, et al.,)	
)	
Defendants.)	
_____)	

INTRODUCTION

Plaintiff, a California prisoner, has filed this pro se civil rights complaint under 42 U.S.C. § 1983. He has previously been granted leave to proceed *in forma pauperis*. The case was dismissed pursuant to 28 U.S.C. § 1915(g). The Ninth Circuit reversed and remanded to this Court for further proceedings. The Complaint is now reviewed pursuant to 28 U.S.C. § 1915A, and it is dismissed with leave to amend within thirty days.

DISCUSSION

I. Standard of Review

Federal courts must engage in a preliminary screening of cases in which prisoners seek redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court must identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint “is frivolous, malicious, or fails to state a claim upon which relief may be granted,” or “seeks monetary relief from a defendant who is immune from such relief.” *Id.* § 1915A(b). Pro se pleadings must be

1 liberally construed. *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir.
2 1990).

3 Federal Rule of Civil Procedure 8(a)(2) requires only "a short and plain statement
4 of the claim showing that the pleader is entitled to relief." "Specific facts are not
5 necessary; the statement need only "give the defendant fair notice of what the . . . claim
6 is and the grounds upon which it rests." *Erickson v. Pardus*, 127 S. Ct. 2197, 2200
7 (2007) (citations omitted). Although in order to state a claim a complaint "does not need
8 detailed factual allegations, . . . a plaintiff's obligation to provide the 'grounds of his
9 'entitle[ment] to relief' requires more than labels and conclusions, and a formulaic
10 recitation of the elements of a cause of action will not do. . . . Factual allegations must
11 be enough to raise a right to relief above the speculative level." *Bell Atlantic Corp. v.*
12 *Twombly*, 127 S. Ct. 1955, 1964-65 (2007) (citations omitted). A complaint must proffer
13 "enough facts to state a claim for relief that is plausible on its face." *Id.* at 1974. Pro se
14 pleadings must be liberally construed. *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696,
15 699 (9th Cir. 1990).

16 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two elements:

- 17 (1) that a right secured by the Constitution or laws of the United States was violated, and
18 (2) that the alleged violation was committed by a person acting under the color of state
19 law. *West v. Atkins*, 487 U.S. 42, 48 (1988).

20 II. Discussion

21 The complaint contains a number of improperly joined claims. Federal Rule 20
22 provides:

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

26 Fed. R. Civ. P. 20(a).

1 The federal rules on joinder are straightforward. “A party asserting a claim,
2 counterclaim, cross-claim, or third-party claim may join, as independent or alternative
3 claims, as many claims as it has against an opposing party.” Fed. R. Civ. P. 18(a). The
4 rules are somewhat different when, as here, there are multiple parties. Multiple parties
5 may be joined as defendants in one action only “if any right to relief is asserted against
6 them jointly, severally, or in the alternative with respect to or arising out of the same
7 transaction, occurrence, or series of transactions or occurrences; and any question of law
8 or fact common to all defendants will arise in the action.” *Id.* at 20(a)(2). The upshot of
9 these rules is that “multiple claims against a single party are fine, but Claim A against
10 Defendant 1 should not be joined with unrelated Claim B against Defendant 2.” *George*
11 *v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007). “Unrelated claims against different
12 defendants belong in different suits.” *Id.* “A buckshot complaint that would be rejected
13 if filed by a free person – say, a suit complaining that A defrauded plaintiff, B defamed
14 him, C punched him, D failed to pay a debt, and E infringed his copyright, all in different
15 transactions – should be rejected if filed by a prisoner.” *Id.*

16 Plaintiff names 41 defendants. His four claims arise from a wide variety of
17 different and unrelated incidents. He alleges, among many other things, that he was
18 denied law library access, improperly given an upper bunk, denied kosher meals, had his
19 trust account frozen, subjected to excessive force, placed in mechanical restraints that
20 were too tight, denied adequate care for his back, had his medical condition
21 misdiagnosed, strip searched, had his personal property taken, forced to eat with his
22 hands, disciplined without due process, given inadequate medication. He lists four
23 different claims – for retaliation, the denial of adequate medical care, the failure to
24 protect his safety, and the confiscation of his personal property. These different claims
25 all arise from distinct incidents involving different prison officials. As alleged, his
26 claims did not arise out of the same transaction, occurrence or series of occurrences, and
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1 do not involve a common question of law or fact. Indeed, Plaintiff appears to be
2 complaining in a single complaint about virtually everything that has happened to him
3 that he finds objectionable in the year after he was transferred to California Training
4 Facility. Rule 20(a) requires that a plaintiff cannot assert a grab-bag of unrelated claims
5 against different defendants. This is precisely what Plaintiff has done. Accordingly, the
6 Court finds the claims and defendants improperly joined.

7 Although a Court may strike individual claims that are not properly joined, the
8 Court cannot here determine which of the many claims Plaintiff may wish to keep and
9 which he wants to omit. Thus, instead of dismissing certain claims and defendants, the
10 Court will dismiss the complaint with leave to file an amended complaint. *See* Fed. R.
11 Civ. P. 21. In his amended complaint, Plaintiff may only allege claims that (a) arise out
12 of the same transaction, occurrence, or series of transactions or occurrences and (b)
13 present questions of law or fact common to all defendants named therein. Claims that do
14 not satisfy Rule 20(a) must be alleged in separate complaints filed in separate actions.
15 The amended complaint must comply with Federal Rule of Civil Procedure 20(a)
16 concerning joinder of claims and defendants, and if it does not, then this action will be
17 dismissed.

18 In his amended complaint, Plaintiff may only include Defendants who were
19 involved in the incidents that give rise to the properly joined claims he chooses to
20 present. Moreover, the amended complaint must allege how each Defendant violated his
21 constitutional rights by alleging the actions or inactions the Defendant took that
22 proximately caused the claimed constitutional violation. Plaintiff may not, as he has
23 done in the Complaint, simply list a large number of Defendants and in conclusory
24 fashion claim that they collectively violated his constitutional rights.

25 Plaintiff will not be given another opportunity to cure these deficiencies after the
26 amended complaint ordered below; if the deficiencies are not cured in the amended
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1 complaint, this case will be dismissed.


2 **CONCLUSION**

3 1. The complaint is DISMISSED WITH LEAVE TO AMEND. Plaintiff shall
4 file an amended complaint within **twenty-eight (28) days from the date this order is**
5 **filed**. The amendment must include the caption and civil case number used in this order
6 (No. C 10-1859 JSW (PR)) and the words “COURT-ORDERED FIRST AMENDED
7 COMPLAINT” on the first page. Because an amended complaint completely replaces
8 the original complaint, *see Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992),
9 Plaintiff may not incorporate material from the original or amended complaints by
10 reference. Failure to amend within the designated time and in accordance with this order
11 will result in the dismissal of this action.

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

16 IT IS SO ORDERED.

17 DATED: October 9, 2012

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19 _____
20 JEFFREY S. WHITE
21 United States District Judge
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1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA
4

5 EARNEST C. WOODS II,
6 Plaintiff,

Case Number: CV10-01859 JSW

7 **CERTIFICATE OF SERVICE**

8 v.

9 BEN CURRY et al,


10 Defendant.
_____ /

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

13 That on October 9, 2012, 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 Earnest C. Woods D 58091
18 P.O. Box 689
Soledad, CA 95696

19 Dated: October 9, 2012

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

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