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

RICKEY WILLIAMS,

No. C-10-4054 TEH (PR)

Plaintiff,

v.

ORDER OF DISMISSAL WITH LEAVE
TO AMEND

ARNOLD SCHWARZENEGGER, et. al.,

Defendant(s).

_____ /

Plaintiff, a prisoner presently incarcerated at California State Prison, Solano, has filed a pro se civil rights Complaint under 42 U.S.C. § 1983 alleging violations of his constitutional rights by the former governor of California, the director and secretary of the California Department of Corrections and Rehabilitation ("CDCR") and wardens of two California prisons. The handwritten Complaint, including attachments, is roughly 370 pages. The Complaint contains allegations regarding incidents unrelated to each other that occurred during different time periods at different prisons spread across several California counties. See Doc. ## 1, 1-1, 1-2 & 1-3. In its present form, the instant Complaint is

1 unmanageable. For the reasons that follow, the Complaint is
2 DISMISSED with LEAVE TO AMEND within thirty (30) days of the date of
3 this Order.

4
5 I

6 As an initial matter, it appears that many of the
7 allegations in Plaintiff's complaint address issues that arose in
8 prisons that are outside this judicial district. Specifically, a
9 substantial part of the events or omissions giving rise to the
10 claim(s) occurred in counties that lie within the venue of either
11 the Eastern District, Central District or Southern District of
12 California. See 28 U.S.C. § 84(b)-(d). Venue therefore properly
13 lies in those districts and cannot proceed included as part of an
14 action here. See id. § 1391(b). Should Plaintiff chose to file an
15 amended complaint, he is advised to include only claims where venue
16 is proper in this judicial district.

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18 II

19 Federal courts must engage in a preliminary screening of
20 cases in which prisoners seek redress from a governmental entity or
21 officer or employee of a governmental entity. 28 U.S.C. § 1915A(a).
22 The court must identify cognizable claims or dismiss the complaint,
23 or any portion of the complaint, if the complaint "is frivolous,
24 malicious, or fails to state a claim upon which relief may be
25 granted," or "seeks monetary relief from a defendant who is immune
26 from such relief." Id. § 1915A(b).

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

6
7 III

8 A

9 Federal Rule of Civil Procedure 8(a)(2) requires only “a
10 short and plain statement of the claim showing that the pleader is
11 entitled to relief.” “Specific facts are not necessary; the
12 statement need only “give the defendant fair notice of what the
13 . . . claim is and the grounds upon which it rests.”” Erickson v.
14 Pardus, 551 U.S. 89, 93, (2007) (per curiam) (citations omitted).
15 Although to state a claim a complaint “does not need detailed
16 factual allegations, . . . a plaintiff’s obligation to provide the
17 ‘grounds of his ‘entitle[ment] to relief’ requires more than labels
18 and conclusions, and a formulaic recitation of the elements of a
19 cause of action will not do. . . . Factual allegations must be
20 enough to raise a right to relief above the speculative level.”
21 Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007) (citations
22 omitted). A complaint must proffer “enough facts to state a claim
23 for relief that is plausible on its face.” Id. at 570.

24 The United States Supreme Court recently explained the
25 “plausible on its face” standard of Twombly as follows: “[w]hile
26 legal conclusions can provide the framework of a complaint, they
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1 must be supported by factual allegations. When there are
2 well-pleaded factual allegations, a court should assume their
3 veracity and then determine whether they plausibly give rise to an
4 entitlement to relief." Ashcroft v. Iqbal, 129 S.Ct. 1937, 1950
5 (2009). Pleadings filed by pro se litigants, however, must be
6 liberally construed. Hebbe v. Pliler, 627 F.3d 338, 342 (9th Cir.
7 2010) (because "Iqbal incorporated the Twombly pleading standard and
8 Twombly did not alter courts' treatment of pro se filings,"
9 pleadings filed by pro se litigants - especially pro se prisoners
10 filing civil rights complaints - must be construed liberally);
11 Balistreri v. Pacifica Police Dep't., 901 F.2d 696, 699 (9th Cir.
12 1990).

13
14 B

15 Federal Rule of Civil Procedure 20 allows persons to be
16 joined in one action as defendants so long as: (1) the right to
17 relief asserted against each defendant arises out of or relates to
18 the same transaction or occurrence, or series of transactions or
19 occurrences; and (2) a question of law or fact common to all
20 defendants arises in the action. See Fed. R. Civ. P. 20(a)(2).

21
22 C

23 A complaint must set forth specific facts showing how each
24 defendant proximately caused the deprivation of a federally-
25 protected right. See Leer v. Murphy, 844 F.2d 628, 634 (9th Cir.
26 1988.) Further, a supervisor may be liable under 42 U.S.C. § 1983
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1 only upon a showing of: (1) personal involvement in the
2 constitutional deprivation; or (2) a sufficient causal connection
3 between the supervisor's wrongful conduct and the constitutional
4 violation. Redman v. County of San Diego, 942 F.2d 1435, 1446 (9th
5 Cir. 1991) (en banc). A supervisor therefore generally "is only
6 liable for constitutional violations of his subordinates if the
7 supervisor participated in or directed the violations, or knew of
8 the violations and failed to act to prevent them." Taylor v. List,
9 880 F.2d 1040, 1045 (9th Cir. 1989). Without more, Plaintiff's
10 naming of the former governor, CDCR secretary and director and
11 individual prison wardens on the apparent basis that they are liable
12 under a respondeat superior theory is insufficient to state a claim
13 against them. See id.

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15 D

16 Here, even construing Plaintiff's Complaint liberally, the
17 Court is unable to decipher precisely what Plaintiff is alleging
18 against whom, whether the allegations plausibly give rise to an
19 entitlement to relief and whether any named Defendant may be held
20 liable because he or she proximately caused the deprivation of a
21 federally-protected right. Further, on its face, Plaintiff's
22 Complaint appears to violate Federal Rule of Civil Procedure
23 20(a)(2) because he alleges unrelated claims that do not contain a
24 question of law or fact that is common to all Defendants. Finally,
25 many of Plaintiff's claims cannot be heard here because of improper
26 venue.

1 IV

2 For the foregoing reasons, the Complaint is DISMISSED WITH
3 LEAVE TO FILE AN AMENDED COMPLAINT containing all related claims
4 against all Defendants that Plaintiff wishes to proceed against in
5 this action. See Fed. R. Civ. P. 20(a)(2). The pleading must be
6 simple, concise and direct and must state clearly and succinctly how
7 each and every Defendant is alleged to have violated Plaintiff's
8 federally-protected rights. See Fed. R. Civ. P. 8(a)(2). The
9 pleading must include the caption and civil case number used in this
10 order and the words FIRST AMENDED COMPLAINT on the first page.
11 Failure to file a proper amended complaint within thirty (30) days
12 of this order will result in the dismissal of this action.

13 Plaintiff is advised that he may only allege claims in a
14 single action that (a) arise out of the same transaction,
15 occurrence, or series of transactions or occurrences and (b) present
16 questions of law or fact common to all defendants named therein.
17 See Fed. R. Civ. P. 20(a)(2). Plaintiff must file individual
18 actions for unrelated claims against unrelated Defendants in the
19 proper venue.

20 Plaintiff is advised that the First Amended Complaint will
21 supersede the original Complaint and all other pleadings. Claims
22 and Defendants not included in the First Amended Complaint will not
23 be considered by the Court. See King v. Atiyeh, 814 F.2d 565, 567
24 (9th Cir. 1987).

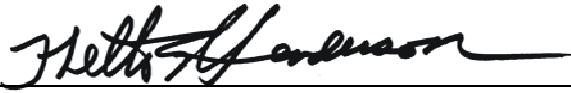
25 Plaintiff further is advised that it is his responsibility
26 to prosecute this case. Plaintiff must keep the Court informed of
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1 any change of address by filing a separate paper with the Clerk
2 entitled "Notice of Change of Address," and must comply with the
3 Court's orders in a timely fashion. Failure to do so may result in
4 the dismissal of this action for failure to prosecute pursuant to
5 Federal Rule of Civil Procedure 41(b).

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IT IS SO ORDERED.

DATED 03/08/2011



THELTON E. HENDERSON
United States District Judge