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

PATRICK D. DEMPSEY, et al.,)	No. C 10-5486 JSW (PR)
)	
Plaintiffs,)	ORDER OF DISMISSAL
)	
v.)	
)	
GREGORY J. AHERN, et al.,)	
)	
Defendants.)	
_____)	

INTRODUCTION

Plaintiff Gregory Ahern, an inmate at the Alameda County Jail proceeding pro se, filed this civil rights complaint under 42 U.S.C. § 1983 against the Sheriff and other officials at the Alameda County Jail. He seeks certification of a class consisting of all inmates at the jail.

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

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

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

18 II. Legal Claims

19 The prerequisites to maintenance of a class action are that (1) the class is so
20 numerous that joinder of all members is impracticable, (2) there are common questions of
21 law and fact, (3) the representative party's claims or defenses are typical of the class
22 claims or defenses, and (4) the representative party will fairly and adequately protect the
23 class interests. Fed. R. Civ. P. 23(a).

24 Unfortunately for plaintiff, his request for class certification is denied because it is
25 well established that pro se incarcerated plaintiffs are not adequate class representatives
26 able to fairly represent and adequately protect the interests of the class. *See Oxendine v.*
27 *Williams*, 509 F.2d 1405, 1407 (4th Cir. 1975); *Griffin v. Smith*, 493 F. Supp. 129, 131
28 (W.D.N.Y. 1980). Plaintiff may not proceed on behalf of anyone other than himself.

1 *See Russell v. United States*, 308 F.2d 78, 79 (9th Cir. 1962) ("a litigant appearing in
2 propria persona has no authority to represent anyone other than himself").

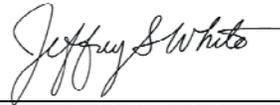
3 **CONCLUSION**

4 This case is DISMISSED without prejudice to Plaintiff's filing a new action solely
5 on his own behalf.

6 The Clerk shall enter judgment and close the file.

7 IT IS SO ORDERED.

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9 DATED: February 8, 2011

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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 PATRICK D DEMPSEY,
6 Plaintiff,
7

Case Number: CV10-05486 JSW

CERTIFICATE OF SERVICE

8 v.

9 GREGORY J AHERN 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 February 8, 2011, 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 Patrick D. Dempsey
18 AYCH470
19 5325 Broder Blvd.
20 Dublin, CA 94568

21 Dated: February 8, 2011



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