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

TYRONE L. REED,

No. C-11-1195 TEH (PR)

Plaintiff,

v.

ORDER OF DISMISSAL

NEWPORT TOBACCO COMPANY,

Defendant.

_____/

Plaintiff, a pre-trial detainee presently housed at the Santa Rita (Alameda County) jail, and frequent litigant in federal court, has filed a pro se civil rights action pursuant to 42 U.S.C. § 1983. Doc. #1. Plaintiff also seeks leave to proceed in forma pauperis, which the court GRANTS in a separate order. The action is now before the Court for initial screening pursuant to 28 U.S.C. § 1915A.

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,

1 or any portion of the complaint, if the complaint "is frivolous,
2 malicious, or fails to state a claim upon which relief may be
3 granted," or "seeks monetary relief from a defendant who is immune
4 from such relief." Id. § 1915A(b). Pleadings filed by pro se
5 litigants, however, must be liberally construed. Hebbe v. Pliler,
6 627 F.3d 338, 341-42 (9th Cir. 2010); Balistreri v. Pacifica Police
7 Dep't., 901 F.2d 696, 699 (9th Cir. 1990).

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

13 Here, Plaintiff has filed a civil rights action against a
14 tobacco company for his apparent addiction to nicotine. Doc. #1 at
15 3. Simply put, Plaintiff's allegations are insufficient to state a
16 cognizable claim for relief under 42 U.S.C. § 1983. The action,
17 therefore, is DISMISSED with prejudice.

18 The Clerk is directed to terminate any pending motions as
19 moot and close the file.

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21 IT IS SO ORDERED.

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23 DATED 04/07/2011



THELTON E. HENDERSON
United States District Judge

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