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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

LARRY J. HAZELAAR,  
Plaintiff,

No. C 11-3204 SI (pr)

**ORDER OF DISMISSAL WITH  
LEAVE TO AMEND**

v.

COUNTY OF SANTA CRUZ; et al.,  
Defendants.

United States District Court  
For the Northern District of California

**INTRODUCTION**

Larry J. Hazelaar, an inmate at the Santa Cruz County Jail, filed a *pro se* civil rights action under 42 U.S.C. § 1983. The complaint is now before the court for review under 28 U.S.C. § 1915A.

**BACKGROUND**

Hazelaar is a pretrial detainee currently incarcerated at Santa Cruz County Jail. His complaint is far from a model of clarity, but appears to assert two claims. First, Hazelaar alleges that defendants have violated his rights by incarcerating him because he is not guilty of the criminal charges pending against him. Second, Hazelaar alleges that he has not received adequate medical and mental health care. The named defendants are the County, prosecutor, judge, and criminal defense attorneys involved in Hazelaar's criminal case. In his prayer for relief, Hazelaar does not seek damages and instead requests that he be released from custody and receive the medicines he needs.



1 proceedings are completed and petitioner exhausts available judicial state remedies, unless  
2 special circumstances warranting federal intervention prior to a state criminal trial can be found.  
3 *See Carden v. Montana*, 626 F.2d 82, 83-84 & n.1 (9th Cir. 1980); *see also United States ex rel.*  
4 *Goodman v. Kehl*, 456 F.2d 863, 869 (2d Cir. 1972) (pretrial detainees must first exhaust state  
5 remedies). Therefore, the first claim is dismissed without prejudice to Hazelaar filing a petition  
6 for writ of habeas corpus, but only after he exhausts state court remedies, unless he can  
7 demonstrate special circumstances warranting federal intervention before the conclusion of his  
8 state court criminal proceedings.

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10 B. Medical And Mental Health Care

11 Hazelaar's second claim alleges that he is not receiving necessary medical and mental  
12 health care. The claim must be amended to cure some deficiencies.

13 The most significant problem with the claim is the absence of any health care providers  
14 among the list of defendants. In his amended complaint, Hazelaar must identify each and every  
15 defendant who he proposes to hold liable for deficiencies in his medical and mental health care.  
16 Hazelaar must be careful to allege facts showing the basis for liability for each individual  
17 defendant. He should not refer to them as a group (e.g. "the defendants"); rather, he should  
18 identify each involved defendant by name and link each of them to his claim by explaining what  
19 each defendant did or failed to do that caused a violation of his constitutional rights. *See Leer*  
20 *v. Murphy*, 844 F.2d 628, 634 (9th Cir. 1988) (liability may be imposed on individual defendant  
21 under § 1983 only if plaintiff can show that defendant proximately caused deprivation of  
22 federally protected right). Hazelaar is cautioned that there is no respondeat superior liability  
23 under § 1983, i.e. no liability under the theory that one is responsible for the actions or omissions  
24 of an employee. Liability under § 1983 arises only upon a showing of personal participation by  
25 the defendant. *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989).

26 The other problem with the claim is that it lacks details sufficient to give defendants  
27 notice of the claim against them. Federal Rule of Civil Procedure 8(a)(2) requires that the  
28 complaint set forth "a short and plain statement of the claim showing that the pleader is entitled

1 to relief." A complaint that fails to state the specific acts of the defendant which violated the  
2 plaintiff's rights fails to meet the notice requirements of Rule 8(a). *Hutchinson v. United States*,  
3 677 F.2d 1322, 1328 n.5 (9th Cir. 1982). For each instance in which he allegedly was denied  
4 medical or mental health care, Hazelaar must explain what his medical need was and allege facts  
5 showing deliberate indifference to it. See Estelle v. Gamble, 429 U.S. 97, 104 (1976) (deliberate  
6 indifference to serious medical needs violates the Eighth Amendment's proscription against cruel  
7 and unusual punishment).


8 In summary, for each instance in which the medical care (including mental health care)  
9 was constitutionally inadequate, Hazelaar should in his amended complaint (a) describe the  
10 medical need, (b) identify the date on which the medical treatment was refused, (c) identify who  
11 refused to provide medical treatment, (d) describe how he alerted that person to his need for  
12 medical treatment, and (e) state how the refusal to provide medical treatment affected him.

13  
14 **CONCLUSION**

15 For the foregoing reasons, the complaint is dismissed with leave to amend only the  
16 medical care claim. The amended complaint must be filed no later than **December 23, 2011**,  
17 and must include the caption and civil case number used in this order and the words AMENDED  
18 COMPLAINT on the first page. Plaintiff is cautioned that his amended complaint must be a  
19 complete statement of his claims and will supersede existing pleadings. *See London v. Coopers*  
20 *& Lybrand*, 644 F.2d 811, 814 (9th Cir. 1981) ("a plaintiff waives all causes of action alleged  
21 in the original complaint which are not alleged in the amended complaint.") Failure to file the  
22 amended complaint by the deadline will result in the dismissal of the action.

23 IT IS SO ORDERED.

24 Dated: November 18, 2011

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27 SUSAN ILLSTON  
28 United States District Judge