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

JOHN RAYMOND WILLIAMS,	)	No. C 12-4421 JSW (PR)
	)	
Plaintiff,	)	<b>ORDER OF DISMISSAL WITH</b>
	)	<b>LEAVE TO AMEND</b>
v.	)	
	)	
COUNTY OF SANTA CLARA;	)	
SHERIFF LAURIE SMITH; VALLEY	)	
MEDICAL CENTER,	)	
	)	
Defendants.	)	

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**INTRODUCTION**

Plaintiff, an inmate at the Santa Clara County Jail, has filed this pro se civil rights complaint under 42 U.S.C. § 1983. Leave to proceed in forma pauperis has been granted in a separate order. The Court now reviews the amended complaint pursuant to 28 U.S.C. § 1915A. For the reasons discussed below, it is DISMISSED with leave to amend.

**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

1 fails to state a claim upon which relief may be granted,” or “seeks monetary relief from a  
2 defendant who is immune from such relief.” *Id.* § 1915A(b). Pro se pleadings must be  
3 liberally construed. *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir.  
4 1990).

5 Federal Rule of Civil Procedure 8(a)(2) requires only "a short and plain statement  
6 of the claim showing that the pleader is entitled to relief." "Specific facts are not  
7 necessary; the statement need only "give the defendant fair notice of what the . . . claim  
8 is and the grounds upon which it rests." *Erickson v. Pardus*, 127 S. Ct. 2197, 2200  
9 (2007) (citations omitted). Although in order to state a claim a complaint “does not need  
10 detailed factual allegations, . . . a plaintiff's obligation to provide the 'grounds of his  
11 'entitle[ment] to relief' requires more than labels and conclusions, and a formulaic  
12 recitation of the elements of a cause of action will not do. . . . Factual allegations must  
13 be enough to raise a right to relief above the speculative level." *Bell Atlantic Corp. v.*  
14 *Twombly*, 127 S. Ct. 1955, 1964-65 (2007) (citations omitted). A complaint must proffer  
15 "enough facts to state a claim for relief that is plausible on its face." *Id.* at 1974. Pro se  
16 pleadings must be liberally construed. *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696,  
17 699 (9th Cir. 1990).

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

## 22 II. Discussion

23 Plaintiff alleges that while he was in the Santa Clara County Jail, he injured his  
24 ankle playing handball. He alleges that despite his complaints of pain and requests for  
25 medical care, he received no care other than a prescription for Motrin for three months.  
26 At the end of the three-month period he received and M.R.I. examination which revealed  
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1 injuries sufficiently serious to require reconstructive surgery.

2 Deliberate indifference to an inmate's serious medical needs amounts to a  
3 violation of their constitutional rights. However, the Defendants named by Plaintiff  
4 cannot be held liable based upon the allegations in the complaint. Plaintiff names the  
5 County of Santa Clara and the Sheriff on the sole theory that they are "responsible" fo  
6 his medical care. Supervisors and employers may not be held liable under Section 1983  
7 on the theory that they are responsible for the actions of their subordinates and  
8 employees. *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989); *accord Monell v. Dep't*  
9 *of Social Servs.*, 436 U.S. 658, 691 (1978) (local governments cannot be liable under  
10 Section 1983 under respondeat superior theory).

11 To establish the liability of a local government entity such as Defendant Santa  
12 Clara County under § 1983 for a violation of constitutional rights, Plaintiff must show:  
13 (1) that the plaintiff possessed a constitutional right of which he or she was deprived;  
14 (2) that the municipality had a policy; (3) that this policy amounts to deliberate  
15 indifference to the plaintiff's constitutional rights; and (4) that the policy is the moving  
16 force behind the constitutional violation. *See Monell v. Dep't of Social Servs.*, 436 U.S.  
17 658, 690 (1978); *Plumeau v. School Dist. #40 County of Yamhill*, 130 F.3d 432, 438 (9th  
18 Cir. 1997). Plaintiff has not alleged a policy or practice on the part of Santa Clara  
19 County that was the moving force behind his alleged deprivation of adequate medical  
20 care. Consequently, he has not stated a cognizable claim against this Defendant.

21 A supervisor, may be liable under section 1983 upon a showing of (1) personal  
22 involvement in the constitutional deprivation or (2) a sufficient causal connection  
23 between the supervisor's wrongful conduct and the constitutional violation. *Henry A. v.*  
24 *Willden*, 678 F.3d 991, 1003-04 (9th Cir. 2012) (citing *Starr v. Baca*, 652 F.3d 1202,  
25 1207 (9th Cir. 2011)). Plaintiff has not alleged any conduct whatsoever by Defendant  
26 Sheriff Smith, let alone any wrongful conduct that caused the allegedly inadequate  
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1 medical care. *Cf. Starr*, 652 F.3d at 1207 (finding no qualified immunity where plaintiff  
2 pled specific facts that plausibly suggest supervisors’ “knowledge of” and “acquiescence  
3 in” unconstitutional conduct of subordinates). Consequently, Plaintiff has not stated a  
4 cognizable claim against Defendant Smith.

5 Lastly, Plaintiff names the Valley Medical Center as a Defendant. Plaintiff has  
6 not alleged how VMC is involved in his case, such as whether and when he received  
7 treatment there or whether he requested treatment from VMC and VMC deliberately  
8 ignored it. Moreover, as discussed above, VMC cannot be held liable under Section  
9 1983 as an employer on the theory that it is vicariously liable or responsible for the  
10 actions of VMC employees. Consequently, Plaintiff has not stated a cognizable claim  
11 against Defendant VMC.

12 Below, Plaintiff is given leave to amend the complaint to correct these  
13 deficiencies provided he can do so in good faith.

#### 14 CONCLUSION

15 For the foregoing reasons,

16 1. The complaint is **DISMISSED WITH LEAVE TO AMEND**. Plaintiff  
17 shall file an amended complaint within **thirty (30) days from the date this order is**  
18 **filed**. The amendment must include the caption and civil case number used in this order  
19 (No. C 12-4421 JSW (PR)) and the words “COURT-ORDERED FIRST AMENDED  
20 COMPLAINT” on the first page. Because an amended complaint completely replaces  
21 the original complaint, *see Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992),  
22 Plaintiff may not incorporate material from the original by reference. Failure to amend  
23 within the designated time and in accordance with this order will result in the dismissal  
24 of this action.

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

3 IT IS SO ORDERED.

4 DATED: October 25, 2012

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7 JEFFREY S. WHITE  
8 United States District Judge  
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1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA  
4

5 JOHN RAYMOND WILLIAMS,  
6 Plaintiff,  
7

Case Number: CV12-04421 JSW

**CERTIFICATE OF SERVICE**

8 v.


9 SANTA CLARA COUNTY OF 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 October 25, 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 John Raymond Williams  
18 701 S. Abel Street  
19 #BWK/634 12005170  
20 Milpitas, CA 95035

21 Dated: October 25, 2012

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