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2
3 IN THE UNITED STATES DISTRICT COURT
4 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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6 JAMES GEORGE STAMOS, JR.,

No. C-13-6012 TEH (PR)

7 Plaintiff,

ORDER OF DISMISSAL WITH LEAVE
TO AMEND

8 v.

9 RANDY GROUNDS, Warden,

Doc. no. 8

10 Defendant.
11 _____/

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13 Plaintiff James George Stamos, Jr., an inmate at
14 California State Prison-Corcoran (CSP-COR), filed a pro se civil
15 rights action under 42 U.S.C. § 1983 against Defendant Randy
16 Grounds, Warden of Salinas Valley State Prison (SVSP), where
17 Plaintiff was previously incarcerated. Plaintiff moves to proceed
18 in forma pauperis (IFP) and moves for removal from the Security
19 Housing Unit (SHU). Plaintiff is granted leave to proceed in forma
20 pauperis in a separate order. For the reasons stated below, the
21 Court dismisses the complaint with leave to amend and denies the
22 motion for removal from the SHU.

23 DISCUSSION

24 I

25 A federal court must engage in a preliminary screening of any
26 case in which a prisoner seeks redress from a governmental entity or
27 officer or employee of a governmental entity. 28 U.S.C. § 1915A(a).
28 In its review the court must identify any cognizable claims, and

1 dismiss any claims which are frivolous, malicious, fail to state a
2 claim upon which relief may be granted, or seek monetary relief from
3 a defendant who is immune from such relief. 28 U.S.C.

4 § 1915A(b)(1),(2). Pro se pleadings must be liberally construed.
5 Balistreri v. Pacifica Police Dep't, 901 F.2d 696, 699 (9th Cir.
6 1990).

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

12 Liability may be imposed on an individual defendant under
13 42 U.S.C. § 1983 if the plaintiff can show that the defendant's
14 actions both actually and proximately caused the deprivation of a
15 federally protected right. Lemire v. California Dept. Corrections &
16 Rehabilitation, 726 F.3d 1062, 1074 (9th Cir. 2013); Leer v. Murphy,
17 844 F.2d 628, 634 (9th Cir. 1988); Harris v. City of Roseburg, 664
18 F.2d 1121, 1125 (9th Cir. 1981). A person deprives another of a
19 constitutional right within the meaning of § 1983 if he does an
20 affirmative act, participates in another's affirmative act or omits
21 to perform an act which he is legally required to do, that causes
22 the deprivation of which the plaintiff complains. Leer, 844 F.2d at
23 633. Under no circumstances is there respondeat superior liability
24 under § 1983. Lemire, 726 F.3d at 1074. Or, in layman's terms,
25 under no circumstances is there liability under § 1983 solely
26 because one is responsible for the actions or omissions of another.
27 Taylor v. List, 880 F.2d 1040, 1045 (9th Cir. 1989).

1 itself and laws of the states. Meachum v. Fano, 427 U.S. 215,
2 223-27 (1976). In the prison context, these interests are generally
3 ones pertaining to liberty. Changes in conditions so severe as to
4 affect the sentence imposed in an unexpected manner implicate the
5 Due Process Clause itself, whether or not they are authorized by
6 state law. Sandin v. Conner, 515 U.S. 472, 484 (1995) (citing Vitek
7 v. Jones, 445 U.S. 480, 493 (1980) (transfer to mental hospital),
8 and Washington v. Harper, 494 U.S. 210, 221-22 (1990) (involuntary
9 administration of psychotropic drugs)). A state may not impose such
10 changes without complying with minimum requirements of procedural
11 due process. Id. at 484.

12 Deprivations that are authorized by state law and are less
13 severe or more closely related to the expected terms of confinement
14 may also amount to deprivations of a procedurally protected liberty
15 interest, provided that (1) state statutes or regulations narrowly
16 restrict the power of prison officials to impose the deprivation,
17 i.e., give the inmate a kind of right to avoid it, and (2) the
18 liberty in question is one of "real substance." Id. at 477-87.
19 Generally, "real substance" will be limited to freedom from (1) a
20 restraint that imposes "atypical and significant hardship on the
21 inmate in relation to the ordinary incidents of prison life," id. at
22 484, or (2) state action that "will inevitably affect the duration
23 of [a] sentence," id. at 487.

24 Typically, placement in segregated housing in and of
25 itself does not implicate a protected liberty interest. Serrano v.
26 Francis, 345 F.3d 1071, 1078 (9th Cir. 2003); see, e.g., Sandin, 515
27 U.S. at 485-86 (inmate's thirty-day placement in disciplinary
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1 segregation, where conditions mirrored conditions imposed upon
2 inmates in administrative segregation and protective custody, did
3 not result in type of atypical, significant deprivation for which
4 state might create liberty interest; nor did situation present case
5 where state's action would inevitably affect duration of sentence);
6 Mujahid v. Meyer, 59 F.3d 931, 932 (9th Cir. 1995) (despite prior
7 case law determining disciplinary regulations created liberty
8 interest, under Sandin no liberty interest when inmate placed in
9 disciplinary segregation for 14 days). However, the circumstances
10 of a particular case may sometimes result in segregation working an
11 atypical and significant hardship on an inmate so that it does
12 implicate a protected liberty interest. See, e.g., Wilkinson v.
13 Austin, 545 U.S. 209, 223-25 (2005) (indefinite placement in Ohio's
14 "supermax" facility, where inmates are not eligible for parole
15 consideration, imposes an "atypical and significant hardship within
16 the correctional context").

17 Wolff v. McDonnell, 418 U.S. 539 (1974) established
18 several procedural requirements for disciplinary hearings. First,
19 "written notice of the charges must be given to the
20 disciplinary-action defendant in order to inform him of the charges
21 and to enable him to marshal the facts and prepare a defense." Id.
22 at 564. Second, "at least a brief period of time after the notice,
23 no less than 24 hours, should be allowed to the inmate to prepare
24 for the appearance before the [disciplinary committee]." Id.
25 Third, "there must be a 'written statement by the factfinders as to
26 the evidence relied on and reasons' for the disciplinary action."
27 Id. Fourth, "the inmate facing disciplinary proceedings should be
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1 process rights and what each Defendant did that violated Plaintiff's
2 due process rights.

3 Plaintiff may not incorporate material from the prior
4 complaint by reference. Failure to file an amended complaint within
5 twenty-eight days and in accordance with this Order will result in a
6 finding that further leave to amend would be futile, and the
7 complaint will be dismissed.

8 4. It is Plaintiff's responsibility to prosecute this
9 case. Plaintiff must keep the Court informed of any change of
10 address by filing a separate paper with the Clerk headed "Notice of
11 Change of Address," and must comply with the Court's orders in a
12 timely fashion. Failure to do so may result in the dismissal of
13 this action for failure to prosecute pursuant to Federal Rule of
14 Civil Procedure 41(b).

15 5. This Order terminates docket number 8.

16 IT IS SO ORDERED.

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18 DATED 04/03/2014



THELTON E. HENDERSON
United States District Judge

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