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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

LONNIE CHARLES BROWN,  
Plaintiff,

v.

EDMUND JERRY BROWN, et al.,  
Defendants.

Case No. [16-cv-02518-JCS](#) (PR)

**ORDER DISMISSING COMPLAINT  
WITH LEAVE TO AMEND**

**INTRODUCTION**

Plaintiff, a California state prisoner proceeding pro se, has filed this federal civil rights action under 42 U.S.C. § 1983. The complaint lacks sufficient factual detail and it is unclear who the proper defendants are. Accordingly, after conducting a review under 28 U.S.C. § 1915(e), the Court DISMISSES the complaint with leave to file an amended complaint on or before August 15, 2016.<sup>1</sup>

**DISCUSSION**

**A. Standard of Review**

In its initial review of this pro se complaint, this Court must dismiss any claim that is frivolous or malicious, or fails to state a claim on which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief. *See* 28 U.S.C. § 1915(e). Pro se pleadings must be liberally construed. *See Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1988).

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<sup>1</sup> Plaintiff consented to magistrate judge jurisdiction. (Docket No. 3.) The magistrate judge, then, has jurisdiction to issue this order, even though defendants have not been served or consented to magistrate judge jurisdiction. *See Neals v. Norwood*, 59 F.3d 530, 532 (5th Cir. 1995).

1 A “complaint must contain sufficient factual matter, accepted as true, to ‘state a  
2 claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)  
3 (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “A claim has facial  
4 plausibility when the plaintiff pleads factual content that allows the court to draw the  
5 reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* (quoting  
6 *Twombly*, 550 U.S. at 556). Furthermore, a court “is not required to accept legal  
7 conclusions cast in the form of factual allegations if those conclusions cannot reasonably  
8 be drawn from the facts alleged.” *Clegg v. Cult Awareness Network*, 18 F.3d 752, 754-55  
9 (9th Cir. 1994).

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

14 **B. Legal Claims**

15 Plaintiff’s allegations are nearly incomprehensible. It appears that plaintiff alleges  
16 his jailors are violating his First Amendment right to the free exercise of religion. Exactly  
17 how or who is doing this is quite unclear. Plaintiff names supervisory defendants, e.g., the  
18 Governor of California, but alleges no specific facts showing that they are liable. In his  
19 amended complaint, plaintiff must allege specific facts, such as names, dates, places, a  
20 description of the actions taken or words spoken, what religious activity was interfered  
21 with, etc.

22 The Court instructs plaintiff to carefully consider the following. It is very difficult  
23 to plead claims against persons based on their role as supervisors, especially where, as  
24 here, there are no facts showing that any of these persons had a personal involvement in  
25 any of the allegedly unconstitutional acts. There is no respondeat superior liability under  
26 § 1983, *see Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989), which means that a person  
27 is not automatically held responsible simply because he or she is a supervisor of an  
28 employee who commits a wrong. It is not enough that the supervisor merely has a

1 supervisory relationship over the defendants; the plaintiff must show that the supervisor  
2 “participated in or directed the violations, or knew of the violations and failed to act to  
3 prevent them.” *Id.* (emphasis added). Furthermore, supervisor defendants are entitled to  
4 qualified immunity where the allegations against them are simply “bald” or “conclusory”  
5 because such allegations do not “plausibly” establish the supervisors’ personal  
6 involvement in their subordinates’ constitutional wrong. *Iqbal*, 129 U.S. at 675-82. There  
7 is nothing in the complaint that indicates personal knowledge or involvement.

8 It is recommended that plaintiff focus his allegations on the persons he had direct  
9 contact with, such as prison guards. He is encouraged to carefully consider the following  
10 when amending his complaint. “A person deprives another ‘of a constitutional right,  
11 within the meaning of section 1983, if he does an affirmative act, participates in another’s  
12 affirmative acts, or omits to perform an act which he is legally required to do that causes  
13 the deprivation of which [the plaintiff complains].” *Leer v. Murphy*, 844 F.2d 628, 633  
14 (9th Cir. 1988) (quoting *Johnson v. Duffy*, 588 F.2d 740, 743 (9th Cir. 1978)). The inquiry  
15 into causation must be individualized and focus on the duties and responsibilities of each  
16 individual defendant whose acts or omissions are alleged to have caused a constitutional  
17 deprivation. *Id.*

## 18 CONCLUSION

19 The complaint is DISMISSED with leave to amend. **Plaintiff shall file an**  
20 **amended complaint on or before August 8, 2016.** The first amended complaint must  
21 include the caption and civil case number used in this order (16-2518 JCS (PR)) and the  
22 words FIRST AMENDED COMPLAINT on the first page. It must address all deficiencies  
23 discussed above. Because an amended complaint completely replaces the previous  
24 complaints, plaintiff must include in his first amended complaint all the claims he wishes  
25 to present and all of the defendants he wishes to sue. *See Ferdik v. Bonzelet*, 963 F.2d  
26 1258, 1262 (9th Cir. 1992). Plaintiff may not incorporate material from the prior  
27 complaint by reference. Any claims not raised in the amended complaint will be deemed  
28 waived. Failure to file an amended complaint in accordance with this order will result in

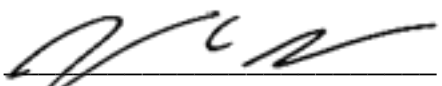
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dismissal of this action without further notice to plaintiff.

It is plaintiff's responsibility to prosecute this case. Plaintiff must keep the Court informed of any change of address by filing a separate paper with the clerk headed "Notice of Change of Address." He must comply with the Court's orders in a timely fashion or ask for an extension of time to do so. Failure to comply may result in the dismissal of this action pursuant to Federal Rule of Civil Procedure 41(b).

**IT IS SO ORDERED.**

**Dated:** July 12, 2016

  
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JOSEPH C. SPERO  
Chief Magistrate Judge

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Case No. [16-cv-02518-JCS](#)

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on July 12, 2016, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Lonnie Charles Brown ID: P-96708  
Pelican Bay State Prison  
P.O. Box 7500  
Crescent City, CA 95532

Dated: July 12, 2016

Susan Y. Soong  
Clerk, United States District Court

By: Karen L. Hom  
Karen Hom, Deputy Clerk to the  
Honorable JOSEPH C. SPERO