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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MARIO TORRES,  
Plaintiff,  
v.  
NATALIE SABA, et al.,  
Defendants.

Case No. [16-cv-06607-SI](#)

**ORDER OF SERVICE AND PARTIAL  
SEVERANCE**

Re: Dkt. Nos. 16, 17, 18, 19

Mario Torres, an inmate at the Correctional Training Facility in Soledad, filed this *pro se* civil rights action under 42 U.S.C. § 1983. His third amended complaint is now before the court for review under 28 U.S.C. § 1915A. His third motion for appointment of counsel and his request to exceed the court-set page limit for the third amended complaint also are before the court for review. This order determines that the claims related to Torres' July 4, 2012 arrest will go forward in this action and severs the other claims for resolution in a separate action. The third motion for appointment of counsel is denied.

**BACKGROUND**

In this action, Torres asserts claims against numerous defendants for alleged misdeeds during his arrest and in connection with criminal cases filed against him. His third amended complaint can be broken into two segments: claims about his arrest on July 4, 2012, and claims about Torres' first trial for an assault he committed four months later.

1 A. Claims Arising From Torres’ July 4, 2012 Arrest (Pages 9-14 of TAC)

2 The third amended complaint alleges the following: Concord police officers Mike Hansen  
3 and Daniel Smith went to Torres’ home in response to a call about an argument Torres had with  
4 his girlfriend. The officers wanted to enter the residence, and Torres wanted to see a warrant.  
5 Officer Hansen then became angry and told Torres, “[i]t’s the law” that he had to let the officers  
6 into the residence. Docket No. 18 at 10. Torres allowed them to enter the residence. Once in the  
7 residence, officers Hansen and Smith beat Torres with batons. Torres was then handcuffed.  
8 Officer Hansen beat Torres again. Eventually, the officers transported Torres to the Concord  
9 police station. At the station, he was again beaten by the officers and was put in a holding cell.<sup>1</sup>

10 The third amended complaint alleges that Concord police sergeant White “negligently and  
11 intentionally refused to thoroughly investigate plaintiff’s claims of excessive force,” yet in the  
12 next paragraph admits that Torres “is unsure of White’s role in this complaint.” *Id.* at 13.

13 The third amended complaint alleges that the Concord Police Department failed to  
14 properly train and supervise officers, and failed to properly investigate claims against them.  
15 Docket No. 18 at 13-14. The City of Concord and Contra Costa County knew or should have  
16 known that the Concord Police Department’s inadequate training program was likely to result in  
17 constitutional violations and other civil wrongs. *Id.* at 14.

18  
19 B. Claims About Torres’ First Trial For Assault (Pages 14-45 of TAC)

20 The second segment of the third amended complaint concerns the criminal proceedings  
21 against Torres for a November 28, 2012 assault on Rick Hendricks. Following a trial in Contra  
22 Costa County Superior Court, Torres was convicted and received a six-year prison sentence for  
23 assault by means of force likely to produce great bodily injury and battery on Rick Hendricks. *See*  
24 Docket No. 1-4 (*People v. Torres*, Cal. Ct. App. Case No. A139734, 12/17/14 opinion at 1, 2). On  
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26 <sup>1</sup> The third amended complaint also alleges that officer Smith perjured himself during  
27 Torres’ preliminary hearing to cover up the excessive force. Docket No. 18 at 11-12. This claim  
28 was dismissed because it is barred by the rule from *Heck v. Humphrey*, 512 U.S. 477 (1994). *See*  
Docket No. 12 at 13.

1 December 17, 2014, this conviction was overturned on appeal, and the case was remanded “for  
2 retrial or other proceedings consistent with this opinion.” *Torres*, slip opinion at 14; *see* Docket  
3 No. 18 at 5. The conviction was reversed because of the cumulative effect of the erroneous  
4 admission of hearsay evidence relating to an uncharged assault by Torres upon his girlfriend,  
5 failure to give a limiting instruction, and allowance of a cross-examination of the defendant that  
6 went far beyond impeachment. *Torres*, slip opinion at 13. After the reversal, the prosecution  
7 decided to retry Torres for the assault on Rick Hendricks. Torres eventually agreed to a plea  
8 bargain and entered a guilty plea covering several cases pending against him, including  
9 convictions for battery causing great bodily injury and assault by force likely to cause great bodily  
10 injury to Rick Hendricks. *See* Docket No. 1-2 at 45-48; Docket No. 1-3 at 24-27.

11 The second segment of the third amended complaint concerns the first trial for the assault  
12 on Rick Hendricks. The third amended complaint alleges that two Contra Costa County public  
13 defenders provided inadequate representation in that case (Docket No. 18 at 15-35); two probation  
14 officers made false statements in a probation report (*id.* at 27-29); the Office of the Contra Costa  
15 County Public Defender failed to properly hire, train, and supervise public defenders, and covered  
16 up wrongdoings (*id.* at 36-37); four court reporters prepared incorrect transcripts during the  
17 pretrial hearings and at trial (*id.* at 37-39); Contra Costa County has policies or customs that led to  
18 the misdeeds mentioned in this paragraph (*id.* at 40-41); and the State of California owes Torres  
19 damages for everything alleged in the third amended complaint (*id.* at 43).

20  
21 **DISCUSSION**

22 A. Severance of the Defendants And Claims Regarding The First Trial For Assault

23 Under Federal Rule of Civil Procedure 20(a), all persons may be joined in one action as  
24 defendants if “any right to relief is asserted against them jointly, severally, or in the alternative  
25 with respect to or arising out of the same transaction, occurrence, or series of transactions or  
26 occurrences” and if “any question of law or fact common to all defendants will arise in the action.”  
27 “A buckshot complaint that would be rejected if filed by a free person – say, a suit complaining  
28 that A defrauded the plaintiff, B defamed him, C punched him, D failed to pay a debt, and E

1 infringed his copyright, all in different transactions – should be rejected if filed by a prisoner.”  
2 *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007) (prisoner complaint seeking to join 24  
3 defendants and approximately 50 distinct claims made no effort to show that the 24 defendants  
4 had participated in the same transaction or series of transactions or that a question of fact was  
5 common to all defendants). “Unrelated claims against different defendants belong in different  
6 suits,” not only to prevent the sort of “morass” that a multi-claim, multi-defendant suit can  
7 produce, “but also to ensure that prisoners pay the required filing fees – for the Prison Litigation  
8 Reform Act limits to 3 the number of frivolous suits or appeals that any prisoner may file without  
9 prepayment of required fees.” *Id.* (citing 28 U.S.C. § 1915(g)). “Instead of developing one  
10 generalized test for ascertaining whether a particular factual situation constitutes a single  
11 transaction or occurrence for purposes of Rule 20, the courts seem to have adopted a case-by-case  
12 approach. As stated by one district court judge: ‘there can be no hard and fast rule, and that the  
13 approach must be a general one of whether there are enough ultimate factual concurrences that it  
14 would be fair to the parties to require them to defend jointly [the several claims] against them.’” 7  
15 Wright, Miller & Kane, Federal Practice and Procedure § 1653 (3d ed. 2001) (citation omitted).

16 Here, the third amended complaint has a joinder problem. In the first segment, three  
17 members of the Concord Police Department and the Concord Police Department itself are sued for  
18 events occurring during Torres’ arrest on July 4, 2012. They are not named as defendants for the  
19 second segment of the third amended complaint, which concerns the criminal proceedings against  
20 Torres for assaulting Rick Hendricks -- an assault that occurred four months after the arrest giving  
21 rise to the claims in the first segment of the third amended complaint. The claims against the  
22 defendants in the second segment are not “with respect to or arising out of the same . . . series of  
23 transactions or occurrences” as required for permissive joinder. See Fed. R. Civ. P. 20(b). The  
24 July 4 arrest claims arise out of a different occurrence from the claims regarding the trial. And the  
25 defendants break into two separate groupings. The defendants (and claims against them) in the  
26 second segment are not properly joined with the defendants (and claims against them) in the first  
27 segment.

1           There are several allegations that may, at first blush, suggest that there are one or more  
2 defendants who are proper defendants for claims in both segments, such that it would be  
3 appropriate for the two segments proceed in a single action. *See* Fed. R. Civ. P. 18. Upon closer  
4 examination, there are no such defendants as to whom viable claims are pled. First, the third  
5 amended complaint alleges that unidentified “defendants” conspired to cover up the Concord  
6 police officers’ excessive force. *See, e.g.*, Docket No. 18 at 8. Even if these unnamed defendants  
7 are also defendants for the second segment, the allegations of conspiracy are mere conclusory  
8 allegations and do not suffice to state a claim against anyone. The court earlier noted that  
9 conclusory allegations of conspiracy were insufficient to state a claim, yet Torres offers only more  
10 of the same in his third amended complaint.<sup>2</sup> *See* Docket No. 12 at 11. The conclusory  
11 allegations of conspiracy do not show that there is a defendant common to both segments of the  
12 third amended complaint. Second, the third amended complaint mentions Contra Costa County in  
13 the July 4 arrest claims as well as the trial claims, and alleges that Contra Costa County tolerates  
14 civil wrongs by the Concord Police Department. *See* Docket No. 18 at 14, 40. But no facts are  
15 alleged showing that Contra Costa County has any control over the Concord Police Department, or  
16 that the county and the city are anything other than two separate municipal entities. The  
17 allegations do not show that Contra Costa County is a proper defendant for the arrest claims.  
18 Lastly, the third amended complaint alleges that the State of California owes Torres damages and  
19 is responsible for every wrong alleged. Docket No. 18 at 43. The State of California will not  
20 remain as a party for either segment because it has Eleventh Amendment immunity from Torres’  
21 claims, and therefore must be dismissed. *See Atascadero State Hosp. v. Scanlon*, 473 U.S. 234,  
22 237-38 (1985). There is no defendant as to whom viable claims are alleged in both segments of  
23 the third amended complaint.

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25           <sup>2</sup> The difference between a conclusory allegation and a factual allegation can best be  
26 understood by some examples. For example, “Smith drove negligently” is a conclusory allegation  
27 and “Smith drove through an intersection without stopping at the stop sign” is a factual allegation.  
28 As another example, “Judge Smith imposed a fine that was cruel and unusual punishment” is a  
conclusory allegation and “Judge Smith imposed a fine of eight million dollars” is a factual  
allegation. When a complaint only alleges conclusions and does not describe the facts that support  
the conclusions, it is deficient.

1           When there is an improper joinder of parties, the improper joinder problem can be solved  
2 by dismissing or severing the improperly joined parties. *See* Fed. R. Civ. P. 21. The court must  
3 conduct a prejudice analysis, including potential statute of limitations problems, before selecting  
4 dismissal over severance. *See Rush v. Sport Chalet, Inc.*, 779 F.3d 973, 975 (9th Cir. 2015).  
5 Here, dismissal will not be chosen because of statute of limitations concerns. The statute of  
6 limitations for a § 1983 claim filed in California is two years, and it may be tolled for up to two  
7 years for the disability of imprisonment for certain plaintiffs. *See Maldonado v. Harris*, 370 F.3d  
8 945, 954 (9th Cir. 2004); Cal. Civ. Proc. Code §§ 335.1, 352.1, 357. The events and omissions  
9 giving rise to Torres’ claims happened 3-5 years ago (i.e., in approximately mid-2012 through  
10 2013 or 2014) and it is unclear on the record how much tolling for incarceration would apply. A  
11 statute of limitations problem may arise if the court simply dismisses the improperly joined  
12 defendants. Because of the uncertainties about the statute of limitations issues for Torres, the  
13 court chooses severance over dismissal of the improperly joined parties.

14           This action will proceed with only the claims against the Concord Police Department and  
15 members of the Concord Police Department relating to the events on July 4, 2012. The claims  
16 against the other defendants will be severed and proceed in a separate action. (At the end of this  
17 order, directions will be provided for the clerk to file the new action with the severed defendants  
18 and claims.)

19  
20       B.     The Third Amended Complaint States Claims Based On The July 4, 2012 Events

21           Torres alleges several § 1983 claims based on the events on July 4, 2012. He claims that  
22 the officers illegally entered his home, used excessive force, falsely arrested him, and violated his  
23 right to equal protection of the laws.

24           The Fourth Amendment proscribes “unreasonable searches and seizures.” U.S. Const.  
25 amend. IV; *Allen v. City of Portland*, 73 F.3d 232, 235 (9th Cir. 1995); *Franklin v. Foxworth*, 31  
26 F.3d 873, 875 (9th Cir. 1994). The third amended complaint alleges that Torres let officers  
27 Hansen and Smith enter the residence reluctantly and only after one told him he was legally  
28 required to let them into the residence. Liberally construed, the third amended complaint alleges a

1 cognizable claim against officers Hansen and Smith for an unreasonable search in violation of  
2 Torres' Fourth Amendment rights.

3 The constitutional right at issue when it is alleged that a law enforcement officer used  
4 excessive force in the course of an arrest or other seizure is the Fourth Amendment right to be free  
5 from "unreasonable . . . seizures." U.S. Const. amend. IV; *see Graham v. Connor*, 490 U.S. 386,  
6 394 (1989). "Determining whether the force used to effect a particular seizure is reasonable under  
7 the Fourth Amendment requires a careful balancing of the nature and quality of the intrusion on  
8 the individual's Fourth Amendment interests against the countervailing governmental interests at  
9 stake." *Graham*, 490 U.S. at 396 (citations and internal quotation marks omitted). Three different  
10 uses of force are alleged by Torres: the officers allegedly beat him upon entry into the residence,  
11 after he was handcuffed, and when he was at the police station. Liberally construed, the third  
12 amended complaint states a cognizable claim against Concord police officers Hansen and Smith  
13 for the use of excessive force on Torres on July 4, 2012.

14 The Fourth Amendment requires that an arrest be supported by probable cause. *Atwater v.*  
15 *City of Lago Vista*, 532 U.S. 318, 354 (2001); *Michigan v. Summers*, 452 U.S. 692, 700 (1981) (an  
16 arrest is unlawful unless there is probable cause to support it). An arrest is supported by probable  
17 cause if, under the totality of the circumstances known to the arresting officer, a prudent person  
18 would have concluded that there was a fair probability that the defendant had committed a crime.  
19 *Luchtel v. Hagemann*, 623 F.3d 975, 980 (9th Cir. 2010). The third amended complaint alleges  
20 that Torres was falsely arrested, and suggests there was no basis for his arrest. Liberally construed,  
21 the third amended complaint states a cognizable claim against Concord police officers Hansen and  
22 Smith for the false arrest of Torres on Torres on July 4, 2012.

23 A plaintiff must show that there was no probable cause for his arrest to prevail on a § 1983  
24 claim for false imprisonment. *Cabrera v. City of Huntington Park*, 159 F.3d 374, 380 (9th Cir.  
25 1998). The claim for wrongful detention, i.e., false imprisonment, generally fails when a claim for  
26 wrongful arrest fails. *See generally Baker v. McCollan*, 443 U.S. 137, 142-145 (1979) (absent  
27 lack of validity of warrant, claim is for violation of state tort law, at best); *id.* at 145 (three-day  
28 detention following arrest pursuant to warrant did not violate the Constitution). The third

1 amended complaint alleges that Torres was falsely arrested, and suggests there was no basis for his  
2 arrest and subsequent detention. Liberally construed, the third amended complaint states a  
3 cognizable claim against Concord police officers Hansen and Smith for the false imprisonment of  
4 Torres on Torres on and after July 4, 2012.

5 “To prevail on [a] claim under the equal protection clause of the Fourteenth Amendment, a  
6 plaintiff must demonstrate that enforcement had a discriminatory effect and the police were  
7 motivated by a discriminatory purpose. ‘To establish a discriminatory effect . . . , the claimant  
8 must show that similarly situated individuals . . . were not prosecuted.’ To show discriminatory  
9 purpose, a plaintiff must establish that “the decision-maker . . . selected or reaffirmed a particular  
10 course of action at least in part ‘because of,’ not merely ‘in spite of,’ its adverse effects upon an  
11 identifiable group.” *Rosenbaum v. City and County of San Francisco*, 484 F.3d 1142, 1152-53  
12 (9th Cir. 2007) (citations omitted). Even with liberal construction, the third amended complaint  
13 does not state a claim for a violation of Torres’ right to equal protection. He alleges that the  
14 defendants used excessive force “due to but not limited to, plaintiff’s race (Hispanic), gender, and  
15 predetermined impoverished status, violating plaintiff’s right to the equal protection of the law.”  
16 Docket No. 18 at 12. No facts are alleged to suggest that the defendants acted with a  
17 discriminatory purpose and that their actions had a discriminatory effect. The equal protection  
18 claim is dismissed. Further leave to amend will not be granted because the court already  
19 explained to Torres that he needed to allege facts showing the basis for liability for each  
20 defendant, and he failed to do so -- showing his unwillingness or inability to do so. *See* Docket  
21 No. 12 at 5-6.

22 Local governments, such as City of Concord, are “persons” subject to liability under 42  
23 U.S.C. § 1983 where official policy or custom causes a constitutional tort. *See Monell v. Dep’t of*  
24 *Social Servs.*, 436 U.S. 658, 690 (1978). Liberally construed, the third amended complaint states a  
25 *Monell* claim against the Concord Police Department based on the alleged failure to train and  
26 supervise officers, and failure to properly investigate police misconduct. Docket No. 18 at 13-14.

27 The third amended complaint does not state a claim against Concord police sergeant White  
28 because the pleading admits that Torres does not know what sergeant White did that might have



1 violated his rights. That is, the third amended complaint alleges that sergeant White “negligently  
2 and intentionally refused to thoroughly investigate plaintiff’s claims of excessive force,” but in the  
3 next breath admits that “plaintiff is unsure of White’s role in this complaint. . . . plaintiff is unable  
4 to obtain the specifics of White[’s] role at this time.” Docket No. 18 at 13. Sergeant White is  
5 dismissed from this action.

6 As the court explained in an earlier order, the rule from *Heck v. Humphrey*, 512 U.S. 477  
7 (1994), may eventually require dismissal of one or more of Torres’ excessive force claims because  
8 he was convicted of one count of resisting an executive officer in the performance of his duties.  
9 Docket No. 18 at 11-13. At this point, however, there is not enough information in the record to  
10 make a determination which, if any, of the excessive force and other claims are barred by *Heck*.  
11 *See id.* at 12-13. Especially due to the lack of information about the basis for the arrest of Torres,  
12 there is insufficient information in the record to determine whether any of the other claims about  
13 the events on July 4, 2012 also might be barred by *Heck*.

14  
15 C. Third Motion For Appointment of Counsel

16 Torres has moved for the third time for the appointment of counsel to represent him in this  
17 action. A district court has the discretion under 28 U.S.C. §1915(e)(1) to designate counsel to  
18 represent an indigent civil litigant in exceptional circumstances. *See Wilborn v. Escalderon*, 789  
19 F.2d 1328, 1331 (9th Cir. 1986). This requires an evaluation of both the likelihood of success on  
20 the merits and the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of  
21 the legal issues involved. *See id.* Neither of these factors is dispositive and both must be viewed  
22 together before deciding on a request for counsel under § 1915(e)(1). Here, exceptional  
23 circumstances requiring the appointment of counsel are not evident. On the allegations of the third  
24 amended complaint, the likelihood of success on the merits looks rather low and plaintiff has not  
25 shown a difficulty articulating his claims. Additionally, now that the scope of this action has been  
26 trimmed to just the July 4, 2012 events, the case appears rather straightforward. The motion for  
27 appointment of counsel is DENIED. Docket No. 16.

28

1 **CONCLUSION**

2 1. The claims against the Concord Police Department and its members arising out of  
3 events and omissions on July 4, 2012 will proceed in this action. All other claims and defendants  
4 will be severed because they are not properly joined with the foregoing claims. That is, the claims  
5 and requests for relief alleged at pages 15-45 of the third amended complaint will be severed and  
6 filed as a new action, where they will be addressed. Only the claims at pages 9-14 and the  
7 requests for relief at pages 43:11 - 45 of the third amended complaint will be addressed in the  
8 present action (i.e., Case No. 16-cv-6607 SI). The jurisdictional allegations on page 1 apply in  
9 both the present action and the to-be-filed action.

10 2. The clerk shall open a new action and file a copy of the third amended complaint  
11 (Docket No. 18) as the first document in that new action. Before filing that document, the clerk  
12 shall cross out the case number for this action, so that it is clear that the third amended complaint  
13 is being used to commence a new action. The clerk shall also file a copy of this order in that new  
14 action, so that it will be clear how that new action came to be filed. In that new action, the claims  
15 alleged at pages 15-45 of the third amended complaint will be addressed.

16 3. Liberally construed, the third amended complaint states cognizable § 1983 claims  
17 against Concord police officer Hansen, Concord police officer Smith, and the Concord Police  
18 Department. All other defendants are dismissed.

19 4. The clerk shall issue a summons and the United States Marshal shall serve, without  
20 prepayment of fees, the summons, and a copy of the third amended complaint, and a copy of this  
21 order and all earlier orders upon the following three defendants: (1) Concord police officer Mike  
22 Hansen; (2) Concord police officer Daniel Smith; and (3) Concord Police Department. They  
23 allegedly may be served at 1350 Galindo Street, Concord, CA 94520.

24 5. In order to expedite the resolution of this case, the following briefing schedule for  
25 dispositive motions is set:

26 a. No later than **February 9, 2018**, defendants must file and serve a motion  
27 for summary judgment or other dispositive motion. If defendants are of the opinion that this case  
28 cannot be resolved by summary judgment, defendants must so inform the court prior to the date

1 the motion is due. If defendants file a motion for summary judgment, defendants must provide to  
2 plaintiff a new *Rand* notice regarding summary judgment procedures at the time they file such a  
3 motion. *See Woods v. Carey*, 684 F.3d 934, 939 (9th Cir. 2012).

4 b. Plaintiff's opposition to the summary judgment or other dispositive motion  
5 must be filed with the court and served upon defendants no later than **March 9, 2018**. Plaintiff  
6 must bear in mind the notice and warning regarding summary judgment provided later in this  
7 order as he prepares his opposition to any motion for summary judgment.

8 c. If defendants wish to file a reply brief, the reply brief must be filed and  
9 served no later than **March 23, 2018**.

10 6. Plaintiff is provided the following notices and warnings about the procedures for  
11 motions for summary judgment:

12 The defendants may make a motion for summary judgment by which they seek to have  
13 your case dismissed. A motion for summary judgment under Rule 56 of the Federal Rules  
14 of Civil Procedure will, if granted, end your case. . . . Rule 56 tells you what you must do  
15 in order to oppose a motion for summary judgment. Generally, summary judgment must  
16 be granted when there is no genuine issue of material fact -- that is, if there is no real  
17 dispute about any fact that would affect the result of your case, the party who asked for  
18 summary judgment is entitled to judgment as a matter of law, which will end your case.  
19 When a party you are suing makes a motion for summary judgment that is properly  
20 supported by declarations (or other sworn testimony), you cannot simply rely on what your  
21 complaint says. Instead, you must set out specific facts in declarations, depositions,  
22 answers to interrogatories, or authenticated documents, as provided in Rule 56(e), that  
23 contradict the facts shown in the defendants' declarations and documents and show that  
24 there is a genuine issue of material fact for trial. If you do not submit your own evidence  
25 in opposition, summary judgment, if appropriate, may be entered against you. If summary  
26 judgment is granted, your case will be dismissed and there will be no trial. *Rand v.*  
27 *Rowland*, 154 F.3d 952, 962-63 (9th Cir. 1998).

28 If a defendant files a motion for summary judgment for failure to exhaust administrative remedies,  
he is seeking to have the case dismissed. As with other defense summary judgment motions, if a  
motion for summary judgment for failure to exhaust administrative remedies is granted, the  
plaintiff's case will be dismissed and there will be no trial.

7. All communications by plaintiff with the court must be served on a defendant's  
counsel by mailing a true copy of the document to defendant's counsel. The court may disregard  
any document which a party files but fails to send a copy of to his opponent. Until a defendant's

1 counsel has been designated, plaintiff may mail a true copy of the document directly to defendant,  
2 but once a defendant is represented by counsel, all documents must be mailed to counsel rather  
3 than directly to that defendant.

4 8. Discovery may be taken in accordance with the Federal Rules of Civil Procedure.  
5 No further court order under Federal Rule of Civil Procedure 30(a)(2) or Local Rule 16 is required  
6 before the parties may conduct discovery.

7 9. Plaintiff is responsible for prosecuting this case. Plaintiff must promptly keep the  
8 court informed of any change of address and must comply with the court's orders in a timely  
9 fashion. Failure to do so may result in the dismissal of this action for failure to prosecute pursuant  
10 to Federal Rule of Civil Procedure 41(b). Plaintiff must file a notice of change of address in every  
11 pending case every time he is moved to a new facility.

12 10. Plaintiff is cautioned that he must include the case name and case number for this  
13 case on any document he submits to this court for consideration in this case.

14 11. Plaintiff's third motion for appointment of counsel is DENIED. Docket No. 16.

15 12. Plaintiff's motion to exceed the page limit for his third amended complaint is  
16 GRANTED. Docket No. 17. The court permits the 45-page third amended complaint. Plaintiff is  
17 cautioned that he must comply with page limits in the future, and that failure to do so may result in  
18 non-complying documents being disregarded.

19 **IT IS SO ORDERED.**

20 Dated: November 14, 2017



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SUSAN ILLSTON  
United States District Judge

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