

United States District Court  
Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SHAWN DAMON BARTH,  
Plaintiff,  
v.  
WILLIAM MUNIZ, et al.,  
Defendants.

Case No. [18-cv-01242-WHO](#) (PR)

**ORDER DISMISSING FIRST  
AMENDED COMPLAINT WITH  
LEAVE TO AMEND**

Plaintiff Shawn Damon Barth has failed to file an amended complaint that complies with my instructions. His first complaint was dismissed with leave to amend because it raised “many unrelated, and factually insufficient, claims against his jailors in a confusing and verbose 55 page complaint, to which he . . . attached 316 pages of exhibits.” (Order Dismissing the Complaint With Leave to Amend, Dkt. No. 6 at 1.) I directed him to file an amended complaint of no more than 10 pages; narrow his allegations to claims related by fact and law; and to plead specific facts in support of his claims. (*Id.* at 2-3.)

Despite having more than 60 days to complete this task, Barth’s amended complaint remains a jumble of mostly unrelated claims. The new complaint is 17 pages long and contains unrelated claims, many of which lack any specific factual support. He claims, for instance, that his jailors have inflicted cruel and unusual punishment on him by transferring him to many prisons over a short time, subjecting him to abuse at the hands of


1 inmates and staff; denied him his First Amendment right to access the courts; denied his  
2 due process right to safety and health; denied him proper medical care, protection from  
3 other inmates, and proper food, all in violation of the Eighth Amendment; denied him  
4 privileges granted to other inmates; and more.

5 Federal pleading rules require that claims be based on “the same transaction,  
6 occurrence, or series of transactions or occurrences” and pose a “question of law or fact  
7 common to all defendants.” Fed. R. Civ. P. 20(a)(2). Barth’s complaint fails to comply  
8 with this rule, and he has failed to follow my directions in the Order dismissing his first  
9 complaint. I again order him file an amended complaint on or before **January 28, 2019** if  
10 he wishes to proceed in this matter. He should pick one closely related set of claims—  
11 related both by the legal claims asserted and the facts involved, as required by Federal  
12 Rule of Civil Procedure 20(a)(2). He must limit the amended complaint to no more than  
13 10 pages and plead specific facts in support of his claims.

14 The first amended complaint is DISMISSED with leave to file an amended  
15 complaint that complies with the Court’s directions. The amended complaint must include  
16 the caption and civil case number used in this order (18-01242 WHO (PR)) and the words  
17 SECOND AMENDED COMPLAINT on the first page. Because an amended complaint  
18 completely replaces the previous complaints, plaintiff must include in his first amended  
19 complaint all the claims he wishes to present and all of the defendants he wishes to sue.  
20 *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992). Plaintiff may not incorporate  
21 material from the prior complaint by reference. Because this new deadline provides Barth  
22 with a substantial amount of time, it is unlikely that any extensions of time will be granted.

23 **IT IS SO ORDERED.**

24 **Dated:** November 29, 2018

25   
26 WILLIAM H. ORRICK  
27 United States District Judge  
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