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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

STEVEN M. PALMER,

Plaintiff,

No. C 08-1116 PJH (PR)

vs.

**ORDER OF DISMISSAL**

Correctional Officer CROTTY, California  
Correctional Institution, Tehachapi;  
MEDICAL (CHIEF) OFFICER, California  
Correctional Institution, Tehachapi; and  
SALINAS VALLEY STATE PRISON,

Defendants.

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This case originally was filed in the United States District Court for the Central District of California. That court granted leave to proceed in forma pauperis and transferred it to the Eastern District. On February 11, 2008, the Eastern District dismissed the complaint with leave to amend, and on February 12, 2008, severed the claims against defendants in the Eastern District from those arising at Salinas Valley State Prison ("SVSP"), which is in this district, and transferred the latter portion of the case here.

**DISCUSSION**

**A. 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). In its review the court must identify any cognizable claims, and dismiss any claims which are frivolous, malicious, fail to state a claim upon which relief may be granted, or seek monetary relief from a defendant who is immune from such relief. *Id.* at 1915A(b)(1),(2). Pro se pleadings must be liberally construed. *Balistreri v. Pacifica Police*

1 *Dep't*, 901 F.2d 696, 699 (9th Cir. 1990).

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

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

17 **B. Legal Claims**

18 Plaintiff contends that defendant Crotty, a correctional officer at the California  
19 Correctional Institution ("CCI") in Tehachapi, California, threatened him because plaintiff  
20 had been charged with assaulting a guard. Plaintiff then fell down a flight of fourteen stairs.  
21 He was rushed to the hospital, but was returned that day, paralyzed from the waist down.  
22 Because of his injury he was forced to crawl around his cell and up and down the stairs.  
23 He contends that he endured this for fourteen days before being taken to the infirmary, and  
24 that he was not checked by any "medical official[s]" while in his cell, and "scarcely" when he  
25 was in the infirmary. Officials at CCI then transferred him to Salinas Valley State Prison,  
26 where the claims at issue in this court's portion of the case arose.

27 Plaintiff contends that SVSP lacks equipment for "medical needs prisoners," and  
28 was not designed to house such prisoners. He asserts that has a "hard time getting to his

1 specialist appointments and receiving physical therapy such as whirlpool baths and weight  
2 training.” He also asserts that because the prison is usually on an unnecessary lockdown,  
3 he should have been given a single-person cell, so he could exercise to replace out-of-cell  
4 exercise.

5 The defendant named in the caption is “Salinas Valley State Prison.” In the list of  
6 defendants in the body of the complaint the only SVSP defendant is “Salinas Valley Prison  
7 Health Care Committee.” Whichever is intended to be the defendant, neither states nor  
8 state agencies cannot be sued in federal court. See *Atascadero State Hosp. v. Scanlon*,  
9 473 U.S. 234, 237-38 (1985) (Eleventh Amendment bars from the federal courts  
10 suits against a state by its own citizens, citizens of another state or citizens or  
11 subjects of any foreign state); *Allison v. California Adult Authority*, 419 F.2d 822, 823  
12 (9th Cir. 1969) (California Adult Authority and San Quentin Prison not persons within  
13 meaning of Civil Rights Act); *Bennett v. California*, 406 F.2d 36, 39 (9th Cir.)  
14 (California Adult Authority and California Dep't of Corrections not persons within  
15 meaning of Civil Rights Act). The claims in the portion of the complaint transferred  
16 to this court therefore must be dismissed.

17 Because no amendment could allege any set of facts in support of the claim  
18 against these defendants that would entitle plaintiff to relief, the dismissal will be  
19 without leave to amend. See *Weilburg v. Shapiro*, 488 F.3d 1202, 1205 (9th Cir.  
20 2007) (pro se complaint “may be dismissed for failure to state a claim only where “it  
21 appears beyond doubt that the plaintiff can prove no set of facts in support of his  
22 claim which would entitle him to relief.””) (citations omitted).

23 **CONCLUSION**

24 The complaint is **DISMISSED** with prejudice. The clerk shall close the file.

25 **IT IS SO ORDERED.**

26 Dated: October 3, 2008.



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PHYLLIS J. HAMILTON  
United States District Judge

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