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2
3 UNITED STATES DISTRICT COURT
4 NORTHERN DISTRICT OF CALIFORNIA
5 OAKLAND DIVISION
6

7 TAYMON J. JACKSON,

8 Plaintiff,

No. C 08-3227 PJH (PR)

9 vs.

ORDER OF DISMISSAL

10 Warden BOB HOREL; C. WILK; W. A.
11 DUNCAN; R. PIMENTE; N. GRANNIS;
12 M. FERGUSON; G. STEWART; M.
13 CASTELLA, J. PASCOE; M. PENA; J.
14 ISOLA; and DEPARTMENT OF
15 OCRECTIONS,

Defendants.
16 _____/

17 This is a civil rights case filed pro se by a state prisoner. In the initial review order,
18 the court dismissed the complaint with leave to amend, saying that it was disorganized and
19 did not provide factual allegations as to what each individual defendant actually did to
20 violate plaintiff's rights. Plaintiff has amended.

21 In the amendment, plaintiff alleges that after he completed a fifteen-month term in
22 the Security Housing Unit ("SHU"), he was classified for indeterminate SHU housing, thus
23 retaining him in the SHU. He was told that this was done for the security of the institution
24 and staff, based on his prior record of disciplinary violations – violations he says were
25 nonviolent. His explanations for the claims he contends arise from this remain somewhat
26 jumbled, but can be ascertained.

27 First, plaintiff contends that his placement in the SHU for an indeterminate term
28 violated his Eighth Amendment rights. He has, however, alleged no facts that suggest
conditions in that housing unit are such that placement there would be cruel and unusual
punishment. He has failed to state an Eighth Amendment claim.

1 Plaintiff also says that he had "already been punished for" the prior rules violation
2 convictions that were used to impose the indeterminate SHU term, which may imply that he
3 wants to raise a double jeopardy claim. Such a claim would fail, however, because the
4 Double Jeopardy Clause does not apply to prison punishments. See *United States v.*
5 *Newby*, 11 F.3d 1143, 1144 (3d Cir. 1993).

6 Plaintiff also contends that he was subjected to "intimidations, retaliation, denials,
7 [and] discriminations." He provides, however, no facts whatever. These conclusory
8 allegations are insufficient under the standard set out by the United States Supreme Court
9 in *Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1950 (2009) (legal conclusions must be supported by
10 factual allegations).

11 For these reasons, plaintiff has failed to state a federal claim. Because all federal
12 claims will be dismissed for failure to state a claim, the court declines to exercise
13 supplemental jurisdiction over the state law claims, which will be dismissed without
14 prejudice. See 28 U.S.C. § 1367(c).

15 CONCLUSION

16 The federal claims are **DISMISSED** with prejudice. The state law claims are
17 **DISMISSED** without prejudice to raising them in state court. The clerk shall close the file.

18 **IT IS SO ORDERED.**

19 Dated: April 13, 2010.



PHYLLIS J. HAMILTON
United States District Judge