

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

3 MARK ANTHONY CANDLER,

No. C 11-01992 CW (PR)

4 Plaintiff,

5 v.

ORDER SERVING AMENDED
COMPLAINT

6 SANTA RITA COUNTY JAILS WATCH
7 COMMANDER, et al.,

8 Defendants.
9 _____/

10 Plaintiff, a state prisoner incarcerated at Pelican Bay State
11 Prison, filed this pro se civil rights action pursuant to 42 U.S.C.
12 § 1983, complaining about his conditions of confinement during the
13 period of his incarceration as a pretrial detainee at the Santa
14 Rita County Jail (SRCJ). At the time of filing, Plaintiff paid the
15 \$350.00 filing fee.

16 Thereafter, the Court conducted a preliminary screening of the
17 complaint as required under 28 U.S.C. § 1915A. By Order filed
18 October 7, 2011, the Court found Plaintiff had failed to provide
19 sufficient facts for the Court to determine whether his allegations
20 stated a cognizable claim for relief under § 1983. Therefore, the
21 Court dismissed the complaint with leave to amend.

22 Now pending before the Court is Plaintiff's amended complaint.
23 Therein, he names as Defendants SRCJ Watch Commander John Doe, SRCJ
24 Commanding Officer Lt. D. Sanchas, SRCJ Sgt. D.L. Snider (Badge
25 #1140), and SRCJ Sgt. B.S. Quin (Badge #1319).

26 Plaintiff alleges that from June 17, 2008 through December 13,
27 2010, Defendants held him in disciplinary lock-up without
28 disciplinary charges or a hearing, and did not provide him with

1 cleaning materials for his cell or with the requisite minimum of
2 three hours of exercise a week. Additionally, he alleges that from
3 March 2009 through December 2010, he routinely went for more than
4 seventy-two hours without a shower. Plaintiff claims Defendants
5 placed him in such adverse conditions of confinement not because of
6 his conduct but, instead, in retaliation and at the request of the
7 District Attorney. He claims the violation of his right to due
8 process and that Defendants acted with deliberate indifference.

9 When a pretrial detainee challenges conditions of his
10 confinement, the proper inquiry is whether the conditions amount to
11 punishment in violation of the Due Process Clause of the Fourteenth
12 Amendment. See Bell v. Wolfish, 441 U.S. 520, 535 n.16 (1979).
13 The state may detain a pretrial detainee "to ensure his presence at
14 trial and may subject him to the restrictions and conditions of the
15 detention facility so long as those conditions and restrictions do
16 not amount to punishment or otherwise violate the Constitution."
17 Id. at 536-37. If a restriction or condition is not reasonably
18 related to a legitimate goal, i.e., if it is arbitrary or
19 purposeless, the court may infer that the purpose of the action is
20 punishment. See id. at 539.

21 Here, Plaintiff's allegations, when liberally construed, state
22 a cognizable claim that his conditions of confinement at the SRCJ
23 amounted to punishment, in violation of due process.¹ Plaintiff's

24
25 ¹Plaintiff's allegation that Defendants acted with deliberate
26 indifference - the standard applied to Eighth Amendment conditions
27 of confinement claims - is a component of his due process claim.
28 "The requirement of conduct that amounts to 'deliberate
indifference' provides an appropriate balance of the pretrial
detainees' right to not be punished with the deference given to
prison officials to manage the prisons." Redman v. County of San
Diego, 942 F.2d 1435, 1443 (9th Cir. 1991) (en banc).

1 claim may proceed against Defendants Sanchas, Snider and Quin.
2 Plaintiff's claim against the SRCJ Watch Commander cannot proceed
3 at this time, however, because that Defendant is identified only as
4 "John Doe." Plaintiff may move to amend his complaint to
5 substitute the correct name of the SRCJ Watch Commander should he
6 learn that information in the future. See Gillespie v. Civiletti,
7 629 F.2d 637, 642 (9th Cir. 1980).

8 CONCLUSION

9 For the foregoing reasons, the Court orders as follows:

10 1. The Clerk of the Court shall mail a Notice of Lawsuit and
11 Request for Waiver of Service of Summons, two copies of the Waiver
12 of Service of Summons, a copy of the amended complaint and all
13 attachments thereto (docket no. 3) and a copy of this Order to the
14 following Defendants at the Santa Rita County Jail: Commanding
15 Officer Lt. D. Sanchas, Sgt. D.L. Snider (Badge #1140), and Sgt.
16 B.S. Quin (Badge #1319).

17 The Clerk of the Court shall also mail a copy of the complaint
18 and a copy of this Order to the Office of County Counsel of Alameda
19 County. Additionally, the Clerk shall mail a copy of this Order to
20 Plaintiff.

21 2. Defendants are cautioned that Rule 4 of the Federal Rules
22 of Civil Procedure requires them to cooperate in saving unnecessary
23 costs of service of the summons and complaint. Pursuant to Rule 4,
24 if Defendants, after being notified of this action and asked by the
25 Court, on behalf of Plaintiff, to waive service of the summons,
26 fail to do so, they will be required to bear the cost of such
27 service unless good cause be shown for their failure to sign and
28 return the waiver form. If service is waived, this action will

1 proceed as if Defendants had been served on the date that the
2 waiver is filed, except that pursuant to Rule 12(a)(1)(B),
3 Defendants will not be required to serve and file an answer before
4 sixty (60) days from the date on which the request for waiver was
5 sent. (This allows a longer time to respond than would be required
6 if formal service of summons is necessary.) Defendants are asked
7 to read the statement set forth at the foot of the waiver form that
8 more completely describes the duties of the parties with regard to
9 waiver of service of the summons. If service is waived after the
10 date provided in the Notice but before Defendants have been
11 personally served, the Answer shall be due sixty (60) days from the
12 date on which the request for waiver was sent or twenty (20) days
13 from the date the waiver form is filed, whichever is later.

14 3. Defendants shall answer the complaint in accordance with
15 the Federal Rules of Civil Procedure. The following briefing
16 schedule shall govern dispositive motions in this action:

17 a. No later than ninety (90) days from the date their
18 answer is due, Defendants shall file a motion for summary judgment
19 or other dispositive motion. The motion shall be supported by
20 adequate factual documentation and shall conform in all respects to
21 Federal Rule of Civil Procedure 56. If Defendants are of the
22 opinion that this case cannot be resolved by summary judgment, they
23 shall so inform the Court prior to the date the summary judgment
24 motion is due. All papers filed with the Court shall be promptly
25 served on Plaintiff.

26 b. Plaintiff's opposition to the dispositive motion
27 shall be filed with the Court and served on Defendants no later
28 than sixty (60) days after the date on which Defendants' motion is

1 filed.

2 The Ninth Circuit has held that the following notice should be
3 given to pro se plaintiffs facing a summary judgment motion:

4 The defendant has made a motion for summary
5 judgment by which they seek to have your case dismissed.
6 A motion for summary judgment under Rule 56 of the
Federal Rules of Civil Procedure will, if granted, end
your case.

7 Rule 56 tells you what you must do in order to
8 oppose a motion for summary judgment. Generally, summary
9 judgment must be granted when there is no genuine issue
10 of material fact -- that is, if there is no real dispute
11 about any fact that would affect the result of your case,
12 the party who asked for summary judgment is entitled to
13 judgment as a matter of law, which will end your case.
14 When a party you are suing makes a motion for summary
15 judgment that is properly supported by declarations (or
16 other sworn testimony), you cannot simply rely on what
17 your complaint says. Instead, you must set out specific
facts in declarations, depositions, answers to
interrogatories, or authenticated documents, as provided
in Rule 56(e), that contradict the facts shown in the
defendant's declarations and documents and show that
there is a genuine issue of material fact for trial. If
you do not submit your own evidence in opposition,
summary judgment, if appropriate, may be entered against
you. If summary judgment is granted [in favor of the
defendants], your case will be dismissed and there will
be no trial.

18 See Rand v. Rowland, 154 F.3d 952, 962-63 (9th Cir. 1998) (en
19 banc).

20 Plaintiff is advised to read Rule 56 of the Federal Rules of
21 Civil Procedure and Celotex Corp. v. Catrett, 477 U.S. 317 (1986)
22 (party opposing summary judgment must come forward with evidence
23 showing triable issues of material fact on every essential element
24 of his claim). Plaintiff is cautioned that because he bears the
25 burden of proving his allegations in this case, he must be prepared
26 to produce evidence in support of those allegations when he files
27 his opposition to Defendants' dispositive motion. Such evidence
28 may include sworn declarations from himself and other witnesses to

1 the incident, and copies of documents authenticated by sworn
2 declaration. Plaintiff will not be able to avoid summary judgment
3 simply by repeating the allegations of his complaint.

4 c. Defendants shall file a reply brief no later than
5 thirty (30) days after the date Plaintiff's opposition is filed.

6 d. The motion shall be deemed submitted as of the date
7 the reply brief is due. No hearing will be held on the motion
8 unless the Court so orders at a later date.

9 4. Discovery may be taken in this action in accordance with
10 the Federal Rules of Civil Procedure. Leave of the Court pursuant
11 to Rule 30(a)(2) is hereby granted to Defendants to depose
12 Plaintiff and any other necessary witnesses confined in prison.

13 5. All communications by Plaintiff with the Court must be
14 served on Defendants, or Defendants' counsel once counsel has been
15 designated, by mailing a true copy of the document to Defendants or
16 Defendants' counsel.

17 6. It is Plaintiff's responsibility to prosecute this case.
18 Plaintiff must keep the Court informed of any change of address and
19 must comply with the Court's orders in a timely fashion.

20 7. Extensions of time are not favored, though reasonable
21 extensions will be granted. Any motion for an extension of time
22 must be filed no later than fifteen (15) days prior to the deadline
23 sought to be extended.

24 IT IS SO ORDERED.

25 DATED: 4/11/2012



CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE

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