

United States District Court  
For the Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

ACHILLES CORELLEONE,  
Plaintiff,

No. C 11-4338 PJH (PR)

vs.

**ORDER OF DISMISSAL WITH  
LEAVE TO AMEND**

RANDY GROUNDS; MATHEW CATE;  
BILL ZIKA, PhD; V. LOMELLI; Capt.  
MARTINEZ; D. FOSTER; C.D.  
REECE; L. KENNAMORE; and JOHN  
DOES 1-10,  
Defendants.

Plaintiff, a prisoner at the Correctional Training Facility in Soledad, has filed a pro se civil rights complaint under 42 U.S.C. § 1983. He has been granted leave to proceed in forma pauperis.

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

Federal Rule of Civil Procedure 8(a)(2) requires only "a short and plain statement of the claim showing that the pleader is entitled to relief." "Specific facts are not necessary;

1 the statement need only "give the defendant fair notice of what the . . . claim is and the  
2 grounds upon which it rests." *Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (citations  
3 omitted). Although in order to state a claim a complaint "does not need detailed factual  
4 allegations, . . . a plaintiff's obligation to provide the 'grounds' of his 'entitle[ment] to relief'  
5 requires more than labels and conclusions, and a formulaic recitation of the elements of a  
6 cause of action will not do. . . . Factual allegations must be enough to raise a right to relief  
7 above the speculative level." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)  
8 (citations omitted). A complaint must proffer "enough facts to state a claim to relief that is  
9 plausible on its face." *Id.* at 570. The United States Supreme Court has recently explained  
10 the "plausible on its face" standard of *Twombly*: "While legal conclusions can provide the  
11 framework of a complaint, they must be supported by factual allegations. When there are  
12 well-pleaded factual allegations, a court should assume their veracity and then determine  
13 whether they plausibly give rise to an entitlement to relief." *Ashcroft v. Iqbal*, 129 S. Ct.  
14 1937, 1950 (2009).

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

19 **B. Legal Claims**

20 Plaintiff claims that he was kept on lockdown for eleven months based on two rules  
21 violation reports. He contends that this "violated state law and CCR Title 15." This  
22 contention that state law was violated is not actionable under section 1983.

23 Plaintiff provides only the most conclusory allegations for his other claims; for  
24 instance, the entirety of his claim two is "[t]he 602 appeals process is unconstitutional (new  
25 602 process," and the entirety of claim three is "[v]iolation of FEHA and American[s] with  
26 Disabilities Act." The remaining claims, four, five, seven (there is no claim six), eight, nine,  
27 and ten are equally sketchy. These allegations are far from sufficient to state a plausible  
28 claim for relief. The complaint will be dismissed with leave to amend.

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**CONCLUSION**

1. For the foregoing reasons, the complaint is **DISMISSED** with leave to amend, as indicated above, within thirty days from the date of this order. The amended complaint must include the caption and civil case number used in this order and the words AMENDED COMPLAINT on the first page. Because an amended complaint completely replaces the original complaint, plaintiff must include in it all the claims he wishes to present. See *Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992). He may not incorporate material from the original complaint by reference. Failure to amend within the designated time will result in the dismissal of these claims.

2. It is the plaintiff's responsibility to prosecute this case. Plaintiff must keep the court informed of any change of address by filing a separate paper with the clerk headed "Notice of Change of Address," and must comply with the court's orders in a timely fashion. Failure to do so may result in the dismissal of this action for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

**IT IS SO ORDERED.**

Dated: April 10, 2012.

  
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PHYLLIS J. HAMILTON  
United States District Judge