

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

3  
4 RUBEN MIJEL CHAVIRA,

5                                    Plaintiff,

6                                    v.

7 B. RANKIN, CORRECTIONAL  
8 ADMINISTRATOR, et al.,

9                                    Defendants.

Case No.: C 11-5730 CW (PR)

ORDER OF DISMISSAL

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11                                    Plaintiff, a state prisoner currently incarcerated at Kern  
12 Valley State Prison, filed the instant pro se civil rights action  
13 under 42 U.S.C. § 1983, complaining of the violation of his  
14 constitutional rights by correctional officials at Salinas Valley  
15 State Prison (SVSP), where he was incarcerated previously. He  
16 has been granted leave to proceed in forma pauperis.

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18                                    Upon initial review, the Court dismissed the complaint with  
19 leave to amend because Plaintiff had not clearly and concisely  
20 set forth his claims against Defendants or directly linked  
21 Defendants to his allegations. In response to the Court's order,  
22 Plaintiff filed an amended complaint. Upon review thereof, the  
23 Court determined:

24                                    Plaintiff appears to allege the following: on  
25 January 17, 2007, he was involved in an  
26 altercation with another inmate; he was  
27 injured and the other inmate died; Plaintiff  
28 was accused of having killed the other inmate  
and was not provided with medical care for  
his injuries; subsequently, prison officials  
found Plaintiff not guilty of killing the

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other inmate and no criminal charges were brought against him. Plaintiff names only one Defendant, Correctional Officer B. Rankin.

Docket no. 8 at 1:23-2:3.

The Court further found that the amended complaint remained deficient because Plaintiff had not explained how Defendant Rankin was involved in the above events and what actions he took that violated Plaintiff's constitutional rights. Consequently, the Court dismissed the amended complaint with further leave to amend for Plaintiff to cure the noted pleading deficiencies.

Plaintiff has filed a second amended complaint in which he restates his allegations as follows: on January 17, 2008, inmate Browne was injured and subsequently died; on November 19, 2008, the District Attorney chose not to press charges against Plaintiff for the incident; on February 3, 2009, Defendant Rankin reissued disciplinary charges against him; he was held in administrative segregation for twenty-one days pending disposition of the charges; on May 8, 2009, the charges were dismissed. Plaintiff seeks damages and claims the violation of his civil rights based on the above course of events.

The Court liberally construes Plaintiff's allegations as an attempt to claim that his right to due process was violated when he was charged with a disciplinary violation of which he later was found innocent and was held in administrative segregation pending investigation of the charges. These claims, however, are not cognizable under 42 U.S.C. § 1983.

A prisoner has no constitutionally guaranteed immunity from being falsely or wrongly accused of conduct which may result in

1 the deprivation of a protected liberty interest. See Sprouse v.  
2 Babcock, 870 F.2d 450, 452 (8th Cir. 1989); Freeman v. Rideout,  
3 808 F.2d 949, 951 (2d Cir. 1986). Specifically, the fact that a  
4 prisoner may have been innocent of disciplinary charges brought  
5 against him and incorrectly held in administrative segregation  
6 does not raise a due process issue. The Constitution demands due  
7 process, not error-free decision-making. See Ricker v. Leapley,  
8 25 F.3d 1406, 1410 (8th Cir. 1994); McCrae v. Hankins, 720 F.2d  
9 863, 868 (5th Cir. 1983).

10 Further, a prisoner's right to due process in connection  
11 with his placement in administrative segregation arises only when  
12 such segregation implicates a protected liberty interest in some  
13 unexpected manner, or imposes an "atypical and significant  
14 hardship on the inmate in relation to the ordinary incidents of  
15 prison life.'" Serrano v. Francis, 345 F.3d 1071, 1078 (9th Cir.  
16 2003) (quoting Sandin v. Connor, 515 U.S. 472, 484 (1995)). In  
17 Serrano, the Ninth Circuit recognized that,

18  
19 [t]ypically, administrative segregation in and of  
20 itself does not implicate a protected liberty  
21 interest. See, e.g., Sandin, 515 U.S. at 486  
22 ("[D]isciplinary segregation, with insignificant  
23 exceptions, mirror[s] those conditions imposed  
24 upon inmates in administrative segregation and  
25 protective custody."); Resnick v. Hayes, 213 F.3d  
26 443, 449 (9th Cir. 2000) (holding that the pre-  
27 sentencing prisoner had no liberty interest in  
28 being free from administrative segregation);  
accord Wagner v. Hanks, 128 F.3d 1173, 1174 (7th  
Cir.1997) ("But it would be difficult (we do not  
say impossible) to make disciplinary segregation  
sufficiently more restrictive than the conditions  
of the general population . . . to count as an  
atypical and significant deprivation of  
liberty[.]"); Freitas v. Ault, 109 F.3d 1335, 1337

1 (8th Cir.1997) ("We believe that as a matter of  
2 law these conditions of [standard administrative  
3 segregation] do not constitute an 'atypical and  
4 significant' hardship, . . . when compared to the  
5 burdens of ordinary prison life.") (internal  
6 citation omitted).

7 Id. (alterations in original).

8 Here, Plaintiff objects solely to the fact of his placement  
9 in administrative segregation for twenty-one days after being  
10 charged with a disciplinary violation of which he subsequently  
11 was found innocent. Such allegation fails to state a claim for  
12 the denial of due process. See Sandin, 515 U.S. at 485-86  
13 (finding prisoner's thirty-day placement in disciplinary  
14 segregation did not result in type of atypical, significant  
15 deprivation for which state might create liberty interest);  
16 Resnick v. Hayes, 213 F.3d 443, 448-49 (9th Cir. 2000)(finding  
17 prisoner's seventy-day placement in secured housing unit pending  
18 disciplinary hearing did not give rise to liberty interest); May  
19 v. Baldwin, 109 F.3d 557, 565 (9th Cir. 1997) (holding allegation  
20 of placement in administrative segregation does not state due  
21 process claim); see also Hewitt v. Helms, 459 U.S. 460, 468  
22 (1983) ("[T]he transfer of an inmate to less amenable and more  
23 restrictive quarters for nonpunitive reasons is well within the  
24 terms of confinement ordinarily contemplated by a prison  
25 sentence.").

26 Based on the above, the Court finds that Plaintiff's  
27 allegations fail to state a claim upon which relief may be  
28 granted for the violation of his right to due process, and that  
granting him further leave to amend the complaint would be

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futile. Accordingly, this action is DISMISSED with prejudice.

The Clerk of the Court shall enter judgment and close the file.

IT IS SO ORDERED.

Dated: 11/26/2012

  
CLAUDIA WILKEN  
UNITED STATES DISTRICT JUDGE