

United States District Court  
For the Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

BRADLEY ALLEN WOLFE,

No. C 12-1340 YGR (PR)

Plaintiff,

**ORDER DISMISSING COMPLAINT  
WITH LEAVE TO AMEND**

v.

SONOMA COUNTY SHERIFF'S  
DEPARTMENT, et al.,

Defendants.

**INTRODUCTION**

This is a federal civil rights action filed pursuant to 42 U.S.C. § 1983 by a *pro se* state prisoner. The Court now reviews the complaint pursuant to 28 U.S.C. § 1915A(a).

**DISCUSSION**

**A. Standard of Review**

A federal court must conduct a preliminary screening in any case in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity. *See* 28 U.S.C. § 1915A(a). In its review, the court must identify any cognizable claims and dismiss any claims that 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. *See id.*

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1 § 1915A(b)(1),(2). *Pro se* pleadings must be liberally construed. *See Balistreri v. Pacifica*  
2 *Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1988).

3 A “complaint must contain sufficient factual matter, accepted as true, to ‘state a claim  
4 to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1949 (2009)  
5 (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “A claim has facial  
6 plausibility when the plaintiff pleads factual content that allows the court to draw the  
7 reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* (quoting  
8 *Twombly*, 550 U.S. at 556). Furthermore, a court “is not required to accept legal conclusions  
9 cast in the form of factual allegations if those conclusions cannot reasonably be drawn from  
10 the facts alleged.” *Clegg v. Cult Awareness Network*, 18 F.3d 752, 754–55 (9th Cir. 1994).  
11 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential elements:  
12 (1) that a right secured by the Constitution or laws of the United States was violated, and  
13 (2) that the alleged violation was committed by a person acting under the color of state law.  
14 *See West v. Atkins*, 487 U.S. 42, 48 (1988).

15 **B. Legal Claims**

16 Plaintiff alleges that defendants, his jailors, are denying him access to the courts by  
17 failing to give him sufficient access to legal materials. Prisoners have a constitutional right  
18 of access to the courts. *See Lewis v. Casey*, 518 U.S. 343, 350 (1996); *Bounds v. Smith*, 430  
19 U.S. 817, 821 (1977). Prison officials must provide prisoners with “the capability of  
20 bringing contemplated challenges to sentences or conditions of confinement before the  
21 courts.” *Casey*, 518 U.S. at 356. To establish a claim for a violation of the right of access to  
22 the courts, the prisoner must prove that there was an inadequacy in the prison’s legal access  
23 program that caused him an actual injury. *See id.* 518 U.S. at 350–55. To prove an actual  
24 injury, the prisoner must show that the inadequacy in the prison’s program hindered his  
25 efforts to pursue a nonfrivolous claim concerning his conviction or conditions of  
26 confinement. *See id.* at 354–55.

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1 Plaintiff's allegations do not meet these requirements. Rather, his claims are  
2 conclusory and undetailed. The Court cannot determine on this complaint what, if any, claim  
3 the prisoner has regarding the legality, duration, or conditions of his confinement. Denial of  
4 library privileges without a connection to the basis of valid claim is in and of itself  
5 insufficient. Thus, the complaint does not contain sufficient factual matter to state a claim  
6 for relief. Accordingly, the complaint is DISMISSED with leave to amend.

7 **Plaintiff shall file an amended complaint addressing the deficiencies detailed**  
8 **above within 30 days from the date this order is filed.** The first amended complaint must  
9 include the caption and civil case number used in this order (12-1340 YGR (PR)) and the  
10 words FIRST AMENDED COMPLAINT on the first page. Because an amended complaint  
11 completely replaces the previous complaints, plaintiff must include in his first amended  
12 complaint *all* the claims he wishes to present and *all* of the defendants he wishes to sue,  
13 including the excessive force claim found cognizable. *See Ferdik v. Bonzelet*, 963 F.2d  
14 1258, 1262 (9th Cir. 1992). Any claims not raised in the amended complaint will be deemed  
15 waived. Plaintiff may *not* incorporate material from the prior complaint by reference.  
16 Failure to file an amended complaint in accordance with this order will result in dismissal of  
17 this action without further notice to plaintiff.

18 It is plaintiff's responsibility to prosecute this case. Plaintiff must keep the Court  
19 informed of any change of address by filing a separate paper with the clerk headed "Notice  
20 of Change of Address." He must comply with the Court's orders in a timely fashion or ask  
21 for an extension of time to do so. Failure to comply may result in the dismissal of this action  
22 pursuant to Federal Rule of Civil Procedure 41(b).

23 **IT IS SO ORDERED.**

24 DATED: November 27, 2012



YVONNE GONZALEZ ROGERS  
UNITED STATES DISTRICT COURT JUDGE

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