

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ROGER LEE WALKER,
Plaintiff,
v.
FORMER SHERIFF GLENN E. DYER,
et al.,
Defendants.

Case No. [16-cv-04988-YGR](#) (PR)
**ORDER OF DISMISSAL WITH LEAVE
TO AMEND**

I. INTRODUCTION

Plaintiff, who is currently in custody at the Coalinga State Hospital, is a civil detainee under California’s “Sexually Violent Predators Act,” California Welfare & Institutions Code § 6600 et seq. In 2014 and 2016, Plaintiff was housed at the Santa Rita Jail for a “period of several months while awaiting court proceedings.” Dkt. 1 at 3. Plaintiff has filed this *pro se* civil rights complaint alleging that his constitutional rights were violated by former Sheriff Glenn E. Dyer¹ and several unnamed deputies who worked at “Unit 3” at Santa Rita Jail (“SRJ”) during his incarceration there on unspecified dates in 2014 and 2016. Plaintiff claims that he was “placed in administrative segregation each time and treated harshly and punitively for no other reason than being a civil detainee under the 6600 law.” *Id.*

Plaintiff’s complaint is now before the Court for review pursuant to 28 U.S.C. §1915, along with his motion for leave to proceed *in forma pauperis*, which will be granted in a separate Order. Plaintiff seeks monetary damages as well as injunctive relief.

Venue is proper because the events giving rise to Plaintiff’s claims are alleged to have occurred at SRJ, which is located in this judicial district. *See* 28 U.S.C. § 1391(b).

For the reasons set forth below, the Court DISMISSES the complaint with leave to amend to correct certain deficiencies addressed below.

¹ The Court notes that the former Sheriff Dyer passed away in 1999, and the current Alameda County Sheriff is Gregory J. Ahern.

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II. 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).

Liability may be imposed on an individual defendant under section 1983 if the plaintiff can show that the defendant proximately caused the deprivation of a federally protected right. *See Leer v. Murphy*, 844 F.2d 628, 634 (9th Cir. 1988); *Harris v. City of Roseburg*, 664 F.2d 1121, 1125 (9th Cir. 1981). A person deprives another of a constitutional right within the meaning of section 1983 if he does an affirmative act, participates in another's affirmative act or omits to perform an act which he is legally required to do, that causes the deprivation of which the plaintiff complains. *Leer*, 844 F.2d at 633; *Robins v. Meecham*, 60 F.3d 1436, 1442 (9th Cir. 1995). To state a claim a plaintiff must show a specific constitutional or federal guarantee safeguarding the interests that have been invaded. *See Paul v. Davis*, 424 U.S. 693, 697 (1976).

Although a plaintiff is not required to plead "specific factual details not ascertainable in advance of discovery," *Gibson v. United States*, 781 F.2d 1334, 1340 (9th Cir. 1986), he does not state a claim under 42 U.S.C. § 1983 if the allegations in the complaint are mere conclusions, *Kennedy v. H & M Landing, Inc.*, 529 F.2d 987, 989 (9th Cir. 1976); *Fisher v. Flynn*, 598 F.2d 663, 665 (1st Cir. 1979). A complaint must contain sufficient allegations to put defendants fairly on notice of the claims against them. *McKeever v. Block*, 932 F.2d 795, 798 (9th Cir. 1991). A complaint that fails to state the specific acts of the defendant which violated the plaintiff's rights fails to meet the notice requirements of Federal Rule of Civil Procedure 8(a). *Hutchinson v. United States*, 677 F.2d 1322, 1328 n.5 (9th Cir. 1982).

Federal Rule of Civil Procedure 8(a)(2) requires only "a short and plain statement of the

1 claim showing that the pleader is entitled to relief.” “Specific facts are not necessary; the
2 statement need only “give the defendant fair notice of what the claim is and the grounds
3 upon which it rests.”” *Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (citations omitted). Although
4 in order to state a claim a complaint “does not need detailed factual allegations, . . . a plaintiff’s
5 obligation to provide the ‘grounds of his ‘entitle[ment] to relief’ requires more than labels and
6 conclusions, and a formulaic recitation of the elements of a cause of action will not do
7 Factual allegations must be enough to raise a right to relief above the speculative level.” *Bell*
8 *Atlantic Corp. v. Twombly*, 550 U.S. 544, 554-55 (2007) (citations omitted). A complaint must
9 proffer “enough facts to state a claim to relief that is plausible on its face.” *Id.* at 570.

10 **B. Legal Claims**

11 As mentioned above, Plaintiff is a civil detainee who is no longer housed at SRJ. He
12 complains of constitutional violations that stem from his incarceration at SRJ during unknown
13 dates in 2014 and 2016. In his one-paragraph “Statement of Claim” section, Plaintiff alleges that
14 he was “placed in administrative segregation each time and treated harshly and punitively for no
15 other reason than being a civil detainee under the 6600 law.” Dkt. 1 at 3. While Plaintiff names
16 former Sheriff Dyer, the Court notes above that this individual passed away in 1999. Moreover,
17 Plaintiff provides insufficient facts, *e.g.*, name of the deputies as well as specific dates of the
18 alleged negative treatment to support these vague and general allegations. Accordingly, this Court
19 has no choice but to dismiss the complaint with leave to amend.

20 Plaintiff’s pleading is too short on facts for the Court to determine whether any of his
21 constitutional rights may have been violated. Plaintiff will be given leave to amend so that he may
22 attempt to allege facts showing how his constitutional rights have been violated. Also, for each
23 instance of a constitutional violation, he should name each person who violated his constitutional
24 rights, describe what each person did to violate his rights, state where the violation occurred, and
25 *when* certain violations occurred, *i.e.*, indicate the exact dates of the alleged negative treatment in
26 administrative segregation. In his amended complaint, Plaintiff must provide a more detailed
27 description of his claims in order for the Court to determine whether enough is alleged to find the
28 pleading adequate to state a claim for relief and require a response from Defendants.

