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United States District Court  
Northern District of California

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CYMEYON V. HILL,  
Plaintiff,  
v.  
MEDICAL STAFF SANTIAGOS, et al.,  
Defendants.

Case No. [24-cv-03519-YGR](#) (PR)

**ORDER OF PARTIAL DISMISSAL;  
SERVING COGNIZABLE CLAIM;  
REFERRING CASE TO PRO SE  
PRISONER MEDIATION PROGRAM  
FOR GLOBAL SETTLEMENT  
PROCEEDINGS; STAYING ACTION;  
AND DIRECTIONS TO CLERK**

**I. INTRODUCTION**

Plaintiff, a civil detainee currently being held in custody at Napa State Hospital (“NSH”), filed a *pro se* civil rights complaint pursuant to 42 U.S.C. § 1983. Venue is proper because the events giving rise to the claim is alleged to have occurred in NSH, which is located in this judicial district. *See* 28 U.S.C. § 1391(b). Plaintiff’s motion for leave to proceed *in forma pauperis* will be granted in a separate order.

Plaintiff has named as defendants four members of the medical staff at NSH: Medical Staff Santiagos, Tom, Monique and Jennie Clay. Dkt. 1 at 2.<sup>1</sup> Plaintiff seeks punitive and nominal damages. *Id.* at 3.

**II. 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. 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

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<sup>1</sup> Page number citations refer to those assigned by the Court’s electronic case management filing system and not those assigned by plaintiff.

1 monetary relief from a defendant who is immune from such relief. *Id.* § 1915A(b)(1), (2). *Pro se*  
2 pleadings must be liberally construed. *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th  
3 Cir. 1988).

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

8 **B. Legal Claims**

9 Plaintiff, who was civilly committed in 1997 following a plea of not guilty by reason of  
10 insanity, alleges the following took place on May 10, 2024. Dkt. 1 at 3. Defendant Santiagos told  
11 plaintiff while he was in “Unit T8” that he was a “fucking nigger and that he would be punished  
12 for filing lawsuits and grievances.” *Id.* Defendant Santiagos also told plaintiff that defendants  
13 Monique and Clay told defendant Santiagos “that plaintiff would suffer [i]n Unit T8.” *Id.*

14 To state a claim for First Amendment retaliation against a government official, a plaintiff  
15 must demonstrate that (1) he engaged in constitutionally protected activity; (2) as a result, he was  
16 subjected to adverse action by the defendant that would chill a person of ordinary firmness from  
17 continuing to engage in the protected activity; and (3) there was a substantial causal relationship  
18 between the constitutionally protected activity and the adverse action. *Mulligan v. Nichols*, 835  
19 F.3d 983, 988 (9th Cir. 2016). Plaintiff has stated a cognizable First Amendment retaliation claim  
20 against defendants Santiagos, Monique, and Clay.

21 To the extent that plaintiff’s complaint states a claim against defendants Santiagos,  
22 Monique, and Clay of verbal harassment and threats, such a claim is DISMISSED. *See Freeman*  
23 *v. Arpaio*, 125 F.3d 732, 738 (9th Cir. 1997) (Allegations of verbal harassment and abuse fail to  
24 state a claim cognizable under 42 U.S.C. § 1983.); *see also Gaut v. Sunn*, 810 F.2d 923, 925 (9th  
25 Cir. 1987) (mere threat does not constitute constitutional wrong, nor do allegations that naked  
26 threat was for purpose of denying access to courts compel contrary result).

27 **III. PRO SE PRISONER MEDIATION PROGRAM**

28 The Northern District of California has established a Pro Se Prisoner Mediation Program.

1 Certain prisoner civil rights cases may be referred to a neutral magistrate judge for settlement  
2 proceedings. The proceedings will consist of one or more conferences as determined by  
3 Magistrate Judge Robert M. Illman. The conferences shall be conducted with Plaintiff as well as  
4 Defendants and/or the representative for Defendants attending by videoconferencing.

5 Good cause appearing, the present case will be REFERRED to Magistrate Judge Robert  
6 Illman for global settlement proceedings pursuant to the Pro Se Prisoner Mediation Program,  
7 involving the instant matter and other cases filed by plaintiff. Such proceedings shall take place  
8 within 120 days of the date this Order is filed, or as soon thereafter as Magistrate Judge Illman's  
9 calendar will permit. Magistrate Judge Illman shall coordinate a place, time, and date for one or  
10 more settlement conferences with all interested parties and/or their representatives and, within  
11 fifteen days of the conclusion of all settlement proceedings, shall file with the Court a report  
12 thereon.

13 **IV. CONCLUSION**

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

- 15 1. Plaintiff has stated a cognizable First Amendment retaliation claim against  
16 defendants Santiagos, Monique, and Clay.
- 17 2. Plaintiff's claim against defendants Santiagos, Monique, and Clay of verbal  
18 harassment and threats is DISMISSED.
- 19 3. Plaintiff's action is referred to the Pro Se Prisoner Mediation Program for global  
20 settlement proceedings, involving the instant matter and other cases filed by plaintiff. The Clerk is  
21 directed to serve Magistrate Judge Illman with a copy of this order and to notify Magistrate Judge  
22 Illman that a copy of the court file can be retrieved from the Court's electronic filing database.
- 23 4. The Clerk of the Court shall mail a Notice of Lawsuit and Request for Waiver of  
24 Service of Summons, two copies of the Waiver of Service of Summons, a copy of the complaint  
25 and all attachments thereto (dkt. 1), and a copy of this Order to the following defendants: **Medical**  
26 **Staff Santiagos, Tom, Monique and Jennie Clay at Napa State Hospital, ATTN: Litigation**  
27 **Coordinator, 2100 Napa Vallejo Hwy, Napa, CA 94558.** The Clerk also shall mail a copy of  
28 the complaint and a copy of this Order to the State Attorney General's Office in San Francisco.

1 Additionally, the Clerk shall mail a copy of this Order to plaintiff.

2 5. Defendants are cautioned that Rule 4 of the Federal Rules of Civil Procedure  
3 requires them to cooperate in saving unnecessary costs of service of the summons and complaint.  
4 Pursuant to Rule 4, if defendants, after being notified of this action and asked by the Court, on  
5 behalf of plaintiff, to waive service of the summons, fail to do so, defendants will be required to  
6 bear the cost of such service unless good cause be shown for the failure to sign and return the  
7 waiver form. If service is waived, this action will proceed as if defendants had been served on the  
8 date that the waiver is filed, except that pursuant to Rule 12(a)(1)(B), defendants will not be  
9 required to serve and file an answer before **sixty (60) days** from the date on which the request for  
10 waiver was sent. (This allows a longer time to respond than would be required if formal service of  
11 summons is necessary.) Defendants are asked to read the statement set forth at the foot of the  
12 waiver form that more completely describes the duties of the parties with regard to waiver of  
13 service of the summons. If service is waived after the date provided in the Notice but before  
14 defendants personally have been served, the Answer shall be due **sixty (60) days** from the date on  
15 which the request for waiver was sent or **twenty (20) days** from the date the waiver form is filed,  
16 whichever is later.

17 6. All communications by Plaintiff with the Court must be served on Defendants or  
18 Defendants' counsel, once counsel has been designated, by mailing a true copy of the document to  
19 them.

20 7. It is plaintiff's responsibility to prosecute this case. Plaintiff must keep the Court  
21 informed of any change of address and must comply with the Court's orders in a timely fashion.  
22 Pursuant to Northern District Local Rule 3-11, a party proceeding *pro se* whose address changes  
23 while an action is pending must promptly file a notice of change of address specifying the new  
24 address. *See* L.R. 3-11(a). The Court may dismiss without prejudice a complaint when: (1) mail  
25 directed to the *pro se* party by the Court has been returned to the Court as not deliverable, and  
26 (2) the Court fails to receive within sixty days of this return a written communication from the *pro*  
27 *se* party indicating a current address. *See* L.R. 3-11(b).

28 8. Upon a showing of good cause, requests for a reasonable extension of time will be

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granted provided they are filed on or before the deadline they seek to extend.

9. In view of the referral to the Pro Se Prisoner Mediation Program, after the operative complaint has been served on the aforementioned named defendants against whom plaintiff has alleged cognizable claim(s), all other further proceedings in this case are hereby STAYED. If the case is not settled, the Court will enter a scheduling order for further proceedings.

IT IS SO ORDERED.

Dated: January 7, 2025

  
YVONNE GONZALEZ ROGERS  
United States District Judge