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

JAMES CLAVON TROUPE,)	No. C 09-00207 JW (PR)
)	
Plaintiff,)	ORDER OF DISMISSAL WITH
)	LEAVE TO AMEND
vs.)	
)	
ELIJAH J. KLEIN, et al.,)	
)	
Defendants.)	

Plaintiff, a prisoner at the Correctional Training Facility (“CTF”) in Soledad, California, has filed a pro se civil rights action under 42 U.S.C. § 1983 alleging claims against CTF prison officials. The Court now reviews the complaint pursuant to 28 U.S.C. § 1915A(a).

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). The court must identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint “is

1 frivolous, malicious, or fails to state a claim upon which relief may be granted,” or
2 “seeks monetary relief from a defendant who is immune from such relief.” Id. §
3 1915A(b). Pro se pleadings must be liberally construed, however. Balistreri v.
4 Pacifica Police Dep’t, 901 F.2d 696, 699 (9th Cir. 1990).

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

9 B. Legal Claims

10 Plaintiff claims that he was unlawfully denied his right to practice religion by
11 defendant Chaplain Elijah Klein’s refusal to allow plaintiff to participate in the
12 prison’s religious dietary kosher meal program. Liberally construed, this claim is
13 cognizable under § 1983.

14 Plaintiff has made no allegations against defendants V. Rasso, Ben Curry or
15 P. Mullen in the instant complaint. Plaintiff must set forth specific facts as to each
16 defendant’s conduct that proximately caused a violation of his federally protected
17 rights. See Leer v. Murphy, 844 F.2d 628, 634 (9th Cir. 1988). Accordingly,
18 claims against these defendants are DISMISSED with leave to amend to attempt to
19 allege cognizable claims pursuant to § 1983.

20
21 **CONCLUSION**

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

23 1. Plaintiff’s claims against defendants V. Rasso, Ben Curry and P. Mullen
24 are hereby DISMISSED with leave to amend, as indicated above. Within **thirty**
25 **(30) days** of the date this order is filed, plaintiff shall file an amended complaint.
26 The amended complaint must include the caption and civil case number used in this
27 order and the words “AMENDED COMPLAINT” on the first page and write in the
28 case number for this action, Case No. C 09-00207 JW (PR). Because an amended

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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). Plaintiff may not incorporate material from the original complaint by reference.

Alternatively, plaintiff may move for the Court to strike the claims against defendants V. Rasso, Ben Curry or P. Mullen from the original complaint and proceed only on the First Amendment claim against defendant Klein.

2. It is 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." He must comply with the Court's orders in a timely fashion or ask for an extension of time to do so. Failure to comply may result in the dismissal of this action pursuant to Federal Rule of Civil Procedure 41(b).

DATED: May 19, 2009



JAMES WARE
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

JAMES C. TROUPE JR.,
Plaintiff,

Case Number: CV09-00207 JW

CERTIFICATE OF SERVICE

v.

ELIJAH J. KLEIN, et al.,
Defendants.

_____/

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 5/28/2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

James Clavon Troupe D-15206
Correctional Training Facility
P. O. Box 689
Soledad, Ca 93960-0689

Dated: 5/28/2009

Richard W. Wieking, Clerk
/s/ By: Elizabeth Garcia, Deputy Clerk