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

RANDALL PIERCE,	)	No. C 12-05362 EJD (PR)
Plaintiff,	)	ORDER OF DISMISSAL
vs.	)	
SAN MATEO COUNTY,	)	
Defendant.	)	

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Plaintiff filed the instant civil rights action under 42 U.S.C. § 1983. Plaintiff’s original complaint was dismissed with leave to amend and he has filed an amended complaint.

**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

1 immune from such relief. See id. § 1915A(b)(1),(2). Pro se pleadings must, however, be  
2 liberally construed. See Balistreri v. Pacifica Police Dep't, 901 F.2d 696, 699 (9th Cir.  
3 1988).

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

8 **B. Plaintiff's Claims**

9 Plaintiff first filed a request for forms (Docket No. 1) and then a request for case  
10 related relief (Docket No. 4) that the Court construed as a complaint. The complaint  
11 simply stated that Plaintiff sought relief then included thirteen pages of inmate appeals  
12 raising a wide range of different unrelated grievances. The appeals discussed his need for  
13 the law library, a request for a bible, envelopes and other miscellaneous requests. The  
14 complaint was dismissed with leave to amend and Plaintiff was told he must allege that a  
15 person acting under the color of state law committed a violation of a right secured by the  
16 Constitution or laws of the United States.

17 Plaintiff's amended complaint has failed to cure the deficiencies of the prior  
18 complaint. Plaintiff alleges violations of several Constitutional rights, but only states that  
19 his mail has been opened and he was verbally assaulted. He fails to identify any specific  
20 Defendants or provide any other information. Regardless, Plaintiff has failed to state a  
21 claim regarding his mail. See Alvarez v. Horel, 415 Fed. Appx. 836 (9th Cir. 2011)  
22 (district court properly dismissed opened mail claim as plaintiff failed to allege he  
23 suffered any injury). Allegations of verbal harassment and abuse fail to state a claim  
24 cognizable under 42 U.S.C. § 1983. See Freeman v. Arpaio, 125 F.3d 732, 738 (9th Cir.  
25 1997) overruled in part on other grounds by Shakur v. Schriro, 514 F.3d 878, 884-85 (9th  
26 Cir. 2008).

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1 The amended complaint will be dismissed and as Plaintiff has already been  
2 provided an opportunity to amend, and as it is clear that further amendment would be  
3 futile, this case is dismissed without leave to amend. See Lopez v. Smith, 203 F.3d 1122,  
4 1129 (9th Cir. 2000).

5  
6 **CONCLUSION**

7 For the foregoing reasons, the complaint is DISMISSED without leave to amend  
8 for failure to state a claim.

9  
10 DATED: 2/22/2013

11   
EDWARD J. DAVILA  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

RANDALL PIERCE,  
Plaintiff,

Case Number CV 12-5362 EJD (PR)

v.

**CERTIFICATE OF SERVICE**

SAN MATEO COUNTY,  
Defendant.

\_\_\_\_\_/

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 2/25/2013, 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) inter-office delivery receptacle located in the Clerk's office.

**Randall Pierce**  
1082515  
Maguire Correctional  
300 Bradford Street  
Redwood City, CA 94063

DATED: 2/25/2013

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

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