

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RONALD STEVENS LIBERATORE,
Plaintiff,
v.
STATE OF CALIFORNIA, et al.,
Defendants.

Case No. 17-cv-03270 NC (PR)

ORDER OF DISMISSAL

Plaintiff, a state prisoner proceeding *pro se*, filed an amended civil rights complaint, pursuant to 42 U.S.C. § 1983. For the reasons stated below, the Court dismisses the 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 immune

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1 from such relief. *See* 28 U.S.C. § 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. Legal claims

9 In Plaintiff's original complaint, the Court could not determine what Plaintiff's
10 allegations were. The Court dismissed the complaint with leave to amend; directed
11 Plaintiff to identify specific Defendants and link each Defendant to each claim; provided
12 the elements of a deliberate indifference to serious medical needs claim; and warned
13 Plaintiff that his amended complaint must comply with Federal Rules of Civil Procedure
14 18 and 20.

15 Plaintiff has filed an amended complaint. A review of the complaint shows that
16 Plaintiff has not cured any of the deficiencies about which the Court warned him, and the
17 amended complaint still fails to state a cognizable claim for relief. The Court finds that
18 further leave to amend would be futile. For these reasons, Plaintiff's complaint is
19 DISMISSED.

20 **CONCLUSION**

21 Plaintiff's amended complaint is dismissed for failure to state a claim for relief.

22 **IT IS SO ORDERED.**

23
24 DATED: October 13, 2017



NATHANAEL M. COUSINS
United States Magistrate Judge

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