

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DEANGELO A GREEN,

Plaintiff,

V.

MARGARET GILBERT, MICHAEL
GLEASON, JOHN DOE, JANE DOE,

Defendants.

CASE NO. 3:17-CV-05898-RBL-DWC

**ORDER TO FILE AMENDED
COMPLAINT**

Plaintiff DeAngelo A. Green, proceeding *pro se*, filed this civil rights complaint under 42 U.S.C. § 1983. Having reviewed and screened Plaintiff's Complaint under 28 U.S.C. § 1915A, the Court finds Plaintiff has failed to state a claim but provides Plaintiff leave to file an amended pleading by January 8, 2018, to cure the deficiencies identified herein.

BACKGROUND

Plaintiff, who is housed at Washington State Penitentiary, alleges his constitutional rights were violated when Defendants Margaret Gilbert and Michael Gleason negligently failed to protect him. Dkt. 3. Plaintiff alleges inmate Matthew Holt put a “hit” on Plaintiff. *Id.* Plaintiff was attacked and correctional employees failed to protect him from the assault. *Id.*

DISCUSSION

Under the Prison Litigation Reform Act of 1995, the Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court must “dismiss the complaint, or any portion of the complaint, if the complaint: (1) is 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.* at (b); 28 U.S.C. § 1915(e)(2); *see Barren v. Harrington*, 152 F.3d 1193 (9th Cir. 1998).

I. Personal Participation

10 In order to state a claim for relief under 42 U.S.C. § 1983, a plaintiff must show: (1) he
11 suffered a violation of rights protected by the Constitution or created by federal statute, and (2)
12 the violation was proximately caused by a person acting under color of state law. *See Crumpton*
13 *v. Gates*, 947 F.2d 1418, 1420 (9th Cir. 1991). The first step in a § 1983 claim is therefore to
14 identify the specific constitutional right allegedly infringed. *Albright v. Oliver*, 510 U.S. 266, 271
15 (1994).

16 To satisfy the second prong, a plaintiff must allege facts showing how individually
17 named defendants caused, or personally participated in causing, the harm alleged in the
18 complaint. *See Leer v. Murphy*, 844 F.2d 628, 633 (9th Cir. 1988); *Arnold v. IBM*, 637 F.2d 1350,
19 1355 (9th Cir. 1981). A person subjects another to a deprivation of a constitutional right when
20 committing an affirmative act, participating in another's affirmative act, or omitting to perform an
21 act which is legally required. *Johnson v. Duffy*, 588 F.2d 740, 743 (9th Cir. 1978). Sweeping
22 conclusory allegations against an official are insufficient to state a claim for relief. *Leer*, 844 F.2d
23 at 633. Further, a § 1983 suit cannot be based on vicarious liability alone, but must allege the

1 defendant's own conduct violated the plaintiff's civil rights. *City of Canton v. Harris*, 489 U.S.
2 378, 385-90 (1989).

3 In the Complaint, Plaintiff names the following Defendants: Margaret Gilbert, Michael
4 Gleason, John Doe 1-10, and Jane Doe 1-10. Dkt. 3. Plaintiff fails to state the alleged wrong-
5 doing of any Defendant in this case. He provides detailed information regarding his interactions
6 with fellow inmates incarcerated in Washington State correctional facilities. *Id.* He, however,
7 fails to explain what actions or inactions by Defendants resulted in deliberate indifference to a
8 serious risk of harm. *See id.* Rather, Plaintiff provides only a generalized statement alleging
9 Defendants were deliberately indifferent to Plaintiff's needs by negligently failing to protect him.
10 Plaintiff's conclusory allegations are insufficient to show Defendants personally participated in
11 the alleged constitutional violations. *See Jones v. Community Development Agency*, 733 F.2d
12 646, 649 (9th Cir. 1984) (vague and mere conclusory allegations unsupported by facts are not
13 sufficient to state section 1983 claims).

14 The Court notes Defendants Gilbert and Gleason hold supervisory positions. *See* Dkt. 3.
15 Plaintiff cannot bring § 1983 action against a supervisor on a theory that the supervisor is liable
16 for the acts of his or her subordinates. *See Polk County v. Dodson*, 454 U.S. 312, 325 (1981).

17 If Plaintiff wishes to pursue this § 1983 action, he must provide a short, plain statement
18 explaining exactly what each Defendant did or failed to do and how the actions violated
19 Plaintiff's constitutional rights and caused him harm.

20 **II. Instruction to Plaintiff and the Clerk**

21 If Plaintiff intends to pursue a § 1983 civil rights action in this Court, he must file an
22 amended complaint and within the amended complaint, he must write a short, plain statement
23 telling the Court: (1) the constitutional right Plaintiff believes was violated; (2) the name of the
24 person who violated the right; (3) exactly what the individual did or failed to do; (4) how the

1 action or inaction of the individual is connected to the violation of Plaintiff's constitutional
2 rights; and (5) what specific injury Plaintiff suffered because of the individual's conduct. *See*
3 *Rizzo v. Goode*, 423 U.S. 362, 371–72, 377 (1976). Each claim for relief must be simple,
4 concise, and direct.

5 Plaintiff shall present the amended complaint on the form provided by the Court. The
6 amended complaint must be legibly rewritten or retyped in its entirety, it should be an original
7 and not a copy, it should contain the same case number, and it may not incorporate any part of
8 the original complaint by reference. The amended complaint will act as a complete substitute for
9 the original Complaint, and not as a supplement. The Court will screen the amended complaint to
10 determine whether it contains factual allegations linking each defendant to the alleged violations
11 of Plaintiff's rights.

12 The Court notes Plaintiff attached a personal declaration to the Complaint. *See* Dkt. 3.
13 The declaration is over 35 pages long. *Id.* It repeats several of the allegations in the Complaint
14 and adds additional factual assertions. *Id.* If Plaintiff wishes the Court to consider the allegations
15 in the declaration, he must include those factual assertions in the Complaint. Further, the Court
16 reminds Plaintiff that Federal Rule of Civil Procedure 8 requires a complaint to contain "a short
17 and plain statement of the claim showing the pleader is entitled to relief," and "[e]ach averment
18 of a pleading shall be simple, concise, and direct." Fed. R. Civ. P. 8(a)(e). Plaintiff's amended
19 complaint must comply with Rule 8.

20 If Plaintiff fails to file an amended complaint or fails to adequately address the issues
21 raised herein on or before January 8, 2018, the undersigned will recommend dismissal of this
22 action as frivolous pursuant to 28 U.S.C. § 1915.

23
24

The Clerk is directed to send Plaintiff the appropriate forms for filing a 42 U.S.C. § 1983 civil rights complaint and for service. The Clerk is further directed to send copies of this Order and Pro Se Instruction Sheet to Plaintiff.

Dated this 6th day of December, 2017.

David W. Christel
David W. Christel
United States Magistrate Judge