

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Peterson v. CDCR, et al.

Peterson v. CDCR, No. 2:24-cv-1794 CSK P (E.D. Cal. June 27, 2025) · No. No. 2:24-cv-1794 CSK P ·
Decided June 27, 2025

SUMMARY

The United States District Court for the Eastern District of California dismissed Ronald K. Peterson's prisoner civil rights complaint concerning slip-and-fall injuries allegedly caused by water from a leaking roof at Folsom State Prison. The court held that the claims against CDCR and Folsom State Prison were barred by the Eleventh Amendment and that the alleged slippery-floor conditions and negligence did not state an Eighth Amendment claim. The court deferred ruling on in forma pauperis status and allowed Peterson 30 days either to voluntarily dismiss and proceed in state court or to file an amended federal complaint.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 RONALD K. PETERSON, No. 2:24-cv-1794 CSK P 12 Plaintiff, ORDER
13 v. 14 CDCR, et al., 15 Defendants. 16 17 Plaintiff is a state prisoner proceeding pro se.
Plaintiff seeks relief pursuant to 42 U.S.C. 18 § 1983 and requested leave to proceed in forma
pauperis pursuant to 28 U.S.C. § 1915.

This 19 proceeding was referred to this Court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)
(1). 20 Initially, it appears that plaintiff may have intended to file his complaint in the Sacramento
21 County Superior Court, because it is filed on a State of California Judicial Council form, and
was 22 initially misdirected to the Unlawful Detainer Division of the Sacramento Superior Court.

(ECF 23 No. 1 at 16.) As discussed below, plaintiff's claims are more appropriately filed in state
court, 24 but the proper address is the Sacramento County Superior Court, 720 Ninth Street,
Sacramento, 25 CA 95814.

Therefore, this Court defers ruling on plaintiff's application to proceed in forma 26 pauperis in
this Court. Plaintiff is granted the opportunity to voluntarily dismiss this action and 27 proceed in
the Sacramento County Superior Court. If plaintiff chooses this option, he will not be 28 assessed
this Court's filing fee. 1 In the alternative, if plaintiff chooses to file an amended complaint and
proceed in this 2 Court, the Court will address plaintiff's filing fee at that time.

Plaintiff is advised that even if he 3 is granted leave to proceed in forma pauperis, he will be
required to pay the statutory filing fee of 4 \$350.00 for this action, although he will be allowed to

pay it in installments from his inmate trust 5 account. 28 U.S.C. §§ 1914(a), 1915(b)(1). 6 I. SCREENING STANDARDS 7 The court is required to screen complaints brought by prisoners seeking relief against a 8 governmental entity or officer or employee of a governmental entity.

28 U.S.C. § 1915A(a). The 9 court must dismiss a complaint or portion thereof if the prisoner raised claims that are legally 10 “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek 11 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1), (2). 12 A claim is legally frivolous when it lacks an arguable basis either in law or in fact.

13 *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *Franklin v. Murphy*, 745 F.2d 1221, 1227-28 (9th Cir. 1984). The court may, therefore, dismiss a claim as frivolous when it is based on an 15 indisputably meritless legal theory or where the factual contentions are clearly baseless. *Neitzke*, 16 490 U.S. at 327.

The critical inquiry is whether a constitutional claim, however inartfully 17 pleaded, has an arguable legal and factual basis. See *Jackson v. Arizona*, 885 F.2d 639, 640 (9th Cir. 1989), superseded by statute as stated in *Lopez v. Smith*, 203 F.3d 1122, 1130-31 (9th Cir. 19 2000) (“[A] judge may dismiss [in forma pauperis] claims which are based on indisputably 20 meritless legal theories or whose factual contentions are clearly baseless.”); *Franklin*, 745 F.2d at 21 1227.

22 Rule 8(a)(2) of the Federal Rules of Civil Procedure “requires only ‘a short and plain 23 statement of the claim showing that the pleader is entitled to relief,’ in order to ‘give the 24 defendant fair notice of what the... claim is and the grounds upon which it rests.’” *Bell Atlantic 25 Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)).

26 In order to survive dismissal for failure to state a claim, a complaint must contain more than “a 27 formulaic recitation of the elements of a cause of action;” it must contain factual allegations 28 sufficient “to raise a right to relief above the speculative level.” *Bell Atlantic*, 550 U.S. at 555. 1 However, “[s]pecific facts are not necessary; the statement [of facts] need only ‘give the 2 defendant fair notice of what the... claim is and the grounds upon which it rests.’” *Erickson v. 3 Pardus*, 551 U.S. 89, 93 (2007) (quoting *Bell Atlantic*, 550 U.S. at 555, citations and internal 4 quotations marks omitted).

In reviewing a complaint under this standard, the court must accept as 5 true the allegations of the complaint in question, *Erickson*, 551 U.S. at 93, and construe the 6 pleading in the light most favorable to the plaintiff. *Scheuer v. Rhodes*, 416 U.S. 232, 236 7 (1974), overruled on other grounds, *Davis v. Scherer*, 468 U.S. 183 (1984). 8 II. PLAINTIFF’S COMPLAINT 9 Plaintiff alleges a personal injury claim exceeding \$25,000.00 for premises liability.

10 Plaintiff claims that defendants CDCR, Folsom State Prison, and Does 1 – 10, were deliberately 11 indifferent because there were no warning signs of water on the concrete floor in

Building 12 (Section B) 3 block on yard A at Folsom State Prison, causing plaintiff to fall on April 6, 2021, 13 and again on December 9, 2021, due to a leaky roof and despite numerous work orders to repair 14 the leaky roof.

(ECF No. 1 at 4.) Plaintiff includes causes of action for intentional tort, general 15 negligence, and premises liability. (Id. at 5, 6, 15.) After his first fall, plaintiff slipped on his 16 butt, hurting his tailbone, and hit his head. (Id. at 5, 6.) During his second fall, plaintiff fell “face 17 down on 1 knee,” landing on his back and elbow. (Id. at 6.)

Plaintiff was transported by 18 wheelchair to medical, where an x-ray showed a chipping of bone. (Id. at 6, 14.) 19 Plaintiff seeks money damages. (Id. at 3.) 20 III. DISCUSSION 21 A. Eleventh Amendment 22 In his complaint plaintiff named the CDCR and Folsom State Prison as defendants.

The 23 Eleventh Amendment serves as a jurisdictional bar to suits brought by private parties against a 24 state or state agency unless the state or the agency consents to such suit. See *Quern v. Jordan*, 25 440 U.S. 332 (1979); *Alabama v. Pugh*, 438 U.S. 781 (1978) (per curiam); *Jackson v. Hayakawa*, 26 682 F.2d 1344, 1349-50 (9th Cir. 1982).

In the instant case, the State of California has not 27 consented to suit. Accordingly, plaintiff’s claims against the CDCR and Folsom State Prison 28 must be dismissed. 1 B. Eighth Amendment 2 1. Legal Standards 3 The Eighth Amendment does not establish premises liability for negligence leading to a 4 slip and fall. Rather, the Eighth Amendment protects prisoners from inhumane methods of 5 punishment and inhumane conditions of confinement.

Morgan v. Morgensen, 465 F.3d 1041, 6 1045 (9th Cir. 2006). Where the plaintiff challenges his conditions of confinement, he must make 7 two showings. *Johnson v. Lewis*, 217 F.3d 726, 731 (9th Cir. 2000). “First, the plaintiff must 8 make an ‘objective’ showing that the deprivation was ‘sufficiently serious’ to form the basis for 9 an Eighth Amendment violation.” Id. (quoting *Wilson v. Seiter*, 501 U.S. 294, 298 (1991)).

10 “Second, the plaintiff must make a ‘subjective’ showing that the prison official acted ‘with a 11 sufficiently culpable state of mind.’” Id. (quoting *Wilson*, 501 U.S. at 298). 12 Regarding the objective prong, extreme deprivations are required to make out a 13 conditions-of-confinement claim; “only those deprivations denying the minimal civilized measure 14 of life’s necessities are sufficiently grave to form the basis of an Eighth Amendment violation.” 15 *Hudson v. McMillian*, 503 U.S. 1, 9 (1992) (citation omitted). “Prison officials have a duty to 16 ensure that prisoners are provided adequate shelter, food, clothing, sanitation, medical care, and 17 personal safety.” *Johnson*, 217 F.3d at 731 (citations omitted). “The circumstances, nature, and 18 duration of a deprivation of these necessities must be considered in determining whether a 19 constitutional violation has occurred.” Id. 20 Regarding the subjective prong, “an Eighth Amendment violation

requires a showing that 21 the subjective state of mind of the prison officials was culpable.” Id. at 733 (citing *Wilson*, 501 U.S. at 298-99).

For the subjective state of mind of the official to be culpable, the official must 23 have acted with “deliberate indifference.” Id. (citing *Wilson*, 501 U.S. at 303). “The deliberate 24 indifference standard requires the plaintiff to prove that ‘the official knows of and disregards an 25 excessive risk to inmate health or safety....’ ” Id. (quoting *Farmer v. Brennan*, 511 U.S. 825, 26 837 (1994)). “[T]he official must both be aware of facts from which the inference could be 27 drawn that a substantial risk of serious harm exists, and he must also draw the inference.” 28 *Farmer*, 511 U.S. at 837. “Whether an official possessed such knowledge ‘is a question of fact 1 subject to demonstration in the usual ways, including inference from circumstantial 2 evidence....’ ” *Johnson*, 217 F.3d at 734 (quoting *Farmer*, 511 U.S. at 842).

3 2. Analysis 4 A single defective condition— such as a slippery floor, a leaking roof, or a broken oven – 5 by itself without additional conditions contributing to a threat to an inmate’s safety does not 6 create an objectively sufficient and serious condition to implicate the Eighth Amendment. See 7 *Osolinski v. Kane*, 92 F.3d 934, 938 (9th Cir. 1996); *Coleman v. Sweetin*, 745 F.3d 756, 764 & 8 n.7 (5th Cir.

2014) (collecting cases and noting “prisoner slip-and-fall claims almost never serve 9 as a predicate for constitutional violations.”). The Ninth Circuit has held that claims regarding 10 slippery floors, without more, “do not state even an arguable claim for cruel and unusual 11 punishment.” *Jackson v. Arizona*, 885 F.2d 639, 641 (9th Cir. 1989), superseded by statute on 12 other grounds as stated in *Lopez v. Smith*, 203 F.3d 1122, 1130-31 (9th Cir.

2000). The Ninth 13 Circuit has repeatedly affirmed dismissals of a pro se prisoner’s action, where the prisoner 14 complained only of a leaking roof and the resulting accumulation of water on a cell floor. See, 15 e.g., *Pickett v. Nooth*, 2017 WL 4541428, at *1 (9th Cir. July 28, 2017) (dismissing appeal as 16 frivolous where plaintiff claimed, among other things, that he slipped and fell in a puddle caused 17 by a leaky roof); *Gilman v. Woodford*, 269 F. App’x 756 (9th Cir.

2008) (“The district court 18 properly determined that the allegations in *Gilman*’s second amended complaint failed to 19 demonstrate that prison officials’ conduct in maintaining the prison roof and floors violated the 20 Eighth Amendment.”). 21 The Ninth Circuit finds conditions such as a wet and slippery floor to be “minor safety 22 hazards,” which do not violate the Eighth Amendment unless there is some “exacerbating 23 condition[]... which render[s] [the prisoner] unable to ‘provide for [his] own safety.’ ” 24 *Osolinski*, 92 F.3d at 938.

In order to state a cognizable claim for relief, there must be some 25 exacerbating condition in addition to the slippery floor. See *Frost v. Agnos*, 152 F.3d 1124, 1129 26 (9th Cir. 1998)

(“[s]lippery floors without protective measures could create a sufficient danger to 27 warrant relief” when an inmate alleges facts that exacerbate the danger resulting from such 28 conditions).

For example, in *Frost*, the prisoner was forced to use a wet and slippery shower floor 1 while on crutches, and was unable to balance himself as well as an uninjured person. See *Frost*, 2 152 F.3d at 1129. The Ninth Circuit held that the failure to “provide handicapped-accessible 3 accommodations for a pretrial detainee who wears a leg cast and relies on crutches,” combined 4 with the risk posed by the wet shower floor, was sufficient to state an Eighth Amendment 5 violation.

Id. On the other hand, the Ninth Circuit has found that shackling a dangerous prisoner 6 in a shower with slippery floors did not state a claim for cruel and unusual punishment. See 7 *LeMaire v. Maass*, 12 F.3d 1444, 1457 (9th Cir. 1993). 8 Here, plaintiff complains of two falls, sustained over eight months apart, from a slippery 9 floor he claims resulted from a leaking roof, but he identifies no other exacerbating factor, such as 10 his required use of crutches or another disability.

See *Frost*, 152 F.3d at 1129 (reversing grant of 11 summary judgment for prisoner asserting Eighth Amendment claim based on defendants’ failure 12 to accommodate his disabled condition, not on the slippery floor). Plaintiff identified no 13 conditions that rendered him unable to provide for his own safety in the sense that the conditions 14 prevented him from avoiding the wet floors or rendered him unable to perceive the slippery 15 conditions.

See *Osolinski*, 92 F.3d at 938. As another Circuit Court explained, while a slippery 16 floor does present a potential hazard, “slippery floors constitute a daily risk faced by members of 17 the public at large” and does not constitute cruel and unusual punishment. *Reynolds v. Powell*, 18 370 F.3d 1028, 1031 (10th Cir. 2004) (citing *LeMaire*, 12 F.3d at 1457). “Remedy for this type 19 of injury, if any, must be sought in state court under traditional tort law principles.” *Reynolds*, 20 370 F.3d at 1031.

Plaintiff includes no allegations demonstrating that a named defendant acted 21 with deliberate indifference, and plaintiff received medical attention after each fall. (ECF No. 1 22 at 6, 8, 10, 12, 14.) 23 Further, plaintiff’s conclusory allegations concerning the leaking roof and work orders 24 submitted for its repair constitute potential negligence, not deliberate indifference.

Plaintiff 25 provides insufficient facts to establish that a defendant purposely ignored a known risk to 26 plaintiff’s safety. See, e.g., *Collier v. Garcia*, 2018 WL 659014, at *2 (N.D. Cal. Jan. 31, 2018) 27 (rejecting claim regarding a slip and fall, even where plaintiff alleges that defendants had notice 28 of the slippery conditions); *Wallace v. Sherman*, 2020 WL 4193968, at *2-5 (E.D.

Cal. July 21, 1 2020) (dismissing complaint that alleged a leaky roof of which prison staff were aware, and 2 caused plaintiff to slip and fall resulting in a head injury, was not an Eighth

Amendment 3 violation), report and recommendation adopted, 2020 WL 5237603 (E.D. Cal. Sept. 2, 2020); 4 *Peterson v. Stewart*, No. 23-cv-0692 DJC JDP P, 2024 WL 2023668, at *1 (E.D.

Cal. May 7, 5 2024) (allegation that defendants failed to address a slippery floor that caused inmate to fall and 6 suffer injury has routinely been held to sound only in negligence), findings and recommendations 7 adopted, 2024 WL 3637981, at *1 (E.D. Cal. Aug. 2, 2024).¹ The circumstances alleged by 8 plaintiff do not support an inference that anyone intended to harm plaintiff, or that an individual 9 understood that the slippery floor posed a substantial risk of serious harm to plaintiff.

Plaintiff's 10 allegations support no more than negligence, and therefore do not state a claim for relief under the 11 Eighth Amendment. See *Estelle v. Gamble*, 429 U.S. 97, 105 (1976) ("An accident, although it 12 may produce added anguish, is not on that basis alone to be characterized as wanton infliction of 13 unnecessary pain" necessary to demonstrate deliberate indifference).

14 Overall, plaintiff's allegations fail to support a reasonable inference that plaintiff had 15 some exacerbating condition in addition to the slippery floor, or that exacerbating conditions 16 rendered him unable to provide for his own safety, and the complaint must be dismissed for 17 failure to state a cognizable claim. 18 C. Doe Defendants 19 Plaintiff has failed to name an individual as a defendant.

Rather, all of the defendants 20 named, with the exception of the CDCR and Folsom State Prison, are identified as "Does 1- 10." 21 First, plaintiff does not identify each Doe defendant and his or her alleged act or omission 22 which plaintiff contends violated his constitutional rights. This is insufficient to put prospective 23 defendants on notice of their alleged actions or omissions that plaintiff claims violate his federal 24 1 Both the instant action, No. 24-cv-1794 TLN CSK P, and plaintiff's prior action, *Peterson v. 25 Stewart*, No. 23-cv-0692 DJC JDP P, were filed by plaintiff Ronald Kemoni Peterson, CDCR #AA-0294.

In both actions, plaintiff raised claims concerning his fall on April 6, 2021, but in 26 *Peterson v. Stewart*, plaintiff sued Warden Jeff Lynch, Sgt. Moore, and two maintenance 27 employees. *Peterson v. Stewart*, No. 23-cv-0692 DJC JDP P (ECF No. 19 (second amended complaint)). Plaintiff's prior action was dismissed without leave to amend for failure to state a 28 claim.

Id. (ECF No. 21). 1 rights. In order to link these Doe defendants to the alleged acts or omissions that demonstrate a 2 violation of plaintiff's federal rights, plaintiff is granted leave to amend if plaintiff opts to proceed 3 with this action, to either name the defendants involved, or list the Doe defendants involved. If 4 plaintiff can only list these defendants as John Doe, plaintiff must identify the John Doe as best as 5 possible, and allege specific acts that these doe defendants did, such as "John Doe 1 did X" and 6 "John Doe 2 and 3 did Y." Plaintiff is reminded that "[a] plaintiff must allege facts, not simply 7 conclusions, that show that an individual was personally

involved in the deprivation of his civil 8 rights.” *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir.

1998). 9 Second, plaintiff’s use of Doe defendants is problematic, see *Gillespie v. Civiletti*, 629 10 F.2d 637, 642 (9th Cir. 1980), and ultimately unnecessary. Rule 15 of the Federal Rules of Civil 11 Procedure, not state law “Doe” pleading practices, governs whether new defendants may be 12 added and if so, whether the claims against them would relate back to the filing of the initial 13 complaint.

Should plaintiff learn the identities of the “Doe” parties he wishes to serve, he must 14 promptly move pursuant to Rule 15 to file an amended complaint to add them as defendants. See 15 *Brass v. County of Los Angeles*, 328 F.3d 1192, 1197-98 (9th Cir. 2003). If the timing of his 16 amended complaint raises questions as to the statute of limitations, plaintiff must satisfy the 17 requirements of Rule 15(c), which is the controlling procedure for adding defendants whose 18 identities were discovered after commencement of the action.

Additionally, unknown persons 19 cannot be served with process until they are identified by their real names. The court will not 20 investigate the names and identities of unnamed defendants. Plaintiff must identify at least one 21 defendant by name so that service of process can be accomplished; then plaintiff can attempt to 22 identify other defendants through discovery.² If plaintiff opts to proceed with this action, plaintiff 23 should provide the name of at least one individual named as a defendant in his amended 24 complaint.

25 ² Where a defendant’s identity is unknown prior to the filing of a complaint, the plaintiff should 26 be given an opportunity through discovery to identify the unknown defendants, unless it is clear 27 that discovery would not uncover the identities or that the complaint would be dismissed on other grounds. *Wakefield v. Thompson*, 177 F.3d 1160, 1163 (9th Cir.

1999) (citing *Gillespie*, 629 28 F.2d at 642). 1 D. Putative State Law Claims 2 Although the court may exercise supplemental jurisdiction over state law claims, plaintiff 3 must first have a cognizable claim for relief under federal law. See 28 U.S.C. § 1367.

Moreover, 4 if a plaintiff pursues state law claims, the plaintiff must clearly identify each claim and 5 demonstrate compliance with the California Government Claims Act as to each claim. Cal. Gov’t 6 Code § 810, et seq.

The Government Claims Act requires that a tort claim against a public entity 7 or its employees be presented to the California Victim Compensation and Government Claims 8 Board no more than six months after the cause of action accrues. Cal. Gov’t Code §§ 905.2, 910, 9 911.2, 945.4, 950, 950.2 (2011). A plaintiff may file a written application for leave to file a late 10 claim up to one year after the cause of action accrues.

Cal. Gov't Code § 911.4. 11 Compliance with this "claim presentation requirement" constitutes an element of a cause 12 of action for damages against a public entity or official. *State v. Superior Court (Bodde)*, 32 Cal. 13 4th 1234, 1244 (2004).

Thus, timely presentation of a claim under the Government Claims Act 14 must be pled in the complaint. *Id.* at 1237, 1240; see also *Mangold v. Cal. Pub. Utils. Comm'n*, 15 67 F.3d. 1470, 1477 (9th Cir. 1995). The plaintiff must present facts demonstrating compliance, 16 rather than simply conclusions suggesting as much. *Shirk v. Vista Unified School Dist.*, 42 Cal. 17 4th 201, 209 (2007), as modified (Oct.

10, 2007). Such requirements also apply to state law 18 claims included in a federal action under § 1983. See *Volis v. Housing Auth. of the City of L.A.* 19 Emps., 670 F. App'x 543, 544 (9th Cir. 2016). 20 E. Conclusion 21 The Court finds the allegations in plaintiff's complaint fail to state a cognizable civil 22 rights claim, and therefore, the complaint must be dismissed.

As discussed above, plaintiff is 23 granted the option of voluntarily dismissing this action and proceeding in state court. If plaintiff 24 chooses this option, he will not be assessed this Court's filing fee. In the alternative, if plaintiff 25 opts to proceed with this federal action, plaintiff is granted leave to file an amended complaint 26 and the Court will address plaintiff's filing fee at that time.

27 IV. LEAVE TO AMEND 28 If plaintiff chooses to proceed with this federal action and amend the complaint, plaintiff 1 must demonstrate how the conditions about which he complains resulted in a deprivation of 2 plaintiff's constitutional rights. See, e.g., *West*, 487 U.S. at 48. Also, the complaint must allege 3 in specific terms how each named defendant is involved.

Rizzo v. Goode, 423 U.S. 362, 371 4 (1976). There can be no liability under 42 U.S.C. § 1983 unless there is some affirmative link or 5 connection between a defendant's actions and the claimed deprivation. *Rizzo*, 423 U.S. at 371; *6 May v. Enomoto*, 633 F.2d 164, 167 (9th Cir. 1980). Furthermore, vague and conclusory 7 allegations of official participation in civil rights violations are not sufficient.

Ivey v. Bd. of 8 Regents, 673 F.2d 266, 268 (9th Cir. 1982). Plaintiff must name at least one defendant 9 responsible for the alleged violation so that the Court may order service of process. 10 In addition, plaintiff is informed that the court cannot refer to a prior pleading in order to 11 make plaintiff's amended complaint complete. Local Rule 220 requires that an amended 12 complaint be complete in itself without reference to any prior pleading.

This requirement exists 13 because, as a general rule, an amended complaint supersedes the original complaint. See *Ramirez 14 v. Cnty. of San Bernardino*, 806 F.3d 1002, 1008 (9th Cir. 2015) ("an 'amended complaint 15 supersedes the original, the latter being treated thereafter as

non-existent.” (internal citation 16 omitted)). Once plaintiff files an amended complaint, the original pleading no longer serves any 17 function in the case.

Therefore, in an amended complaint, as in an original complaint, each claim 18 and the involvement of each defendant must be sufficiently alleged. 19 V. EXHIBITS 20 Plaintiff appended exhibits to his complaint. (ECF No. 1 at 7-14.) Exhibits are allowed 21 under Rule 10(c) of the Federal Rules of Civil Procedure.

However, exhibits are not necessary in 22 the federal system of notice pleading. Fed. R. Civ. P. 8(a). 23 VI. ORDERS 24 In accordance with the above, IT IS HEREBY ORDERED that: 25 1. The ruling on plaintiff’s motion for leave to proceed in forma pauperis is deferred. 26 2. Plaintiff’s complaint is dismissed. 27 3. Within thirty days from the date of this order, plaintiff shall complete the attached 28 Notice of Election and submit the following documents to the court:] a. The completed Notice of Election; and 2 b. If plaintiff elects to proceed with this federal action, an original of the Amended 3 || Complaint filed on the form provided by the Clerk of Court.

4 Plaintiff’s amended complaint shall comply with the requirements of the Civil Rights Act, 5 || the Federal Rules of Civil Procedure, and the Local Rules of Practice. The amended complaint 6 || must also bear the docket number assigned to this case and must be labeled “Amended 7 || Complaint.” Failure to file an amended complaint in accordance with this order will result in the 8 | imposition of this Court’s filing fee, and may result in the dismissal of this action.

9 4. The Clerk of the Court is directed to send plaintiff the form for filing a civil rights 10 || complaint by a prisoner. 1] 12 | Dated: June 27, 2025 4 aA 13 \ Aaa spe CHI SOO KIM 14 UNITED STATES MAGISTRATE JUDGE 15 6 /V/pete1794.14n 17 18 19 20 21 22 23 24 25 26 27 28 1] 1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 RONALD K. PETERSON, No. 2:24-cv-1794 CSK P 11 Plaintiff, 12 v. NOTICE OF ELECTION 13 CDCR, et al., 14 Defendants.

15 16 Plaintiff elects to proceed as follows: 17 Plaintiff elects to voluntarily dismiss this action and proceed in state court. 18 (Check this box if electing voluntary dismissal) 19 OR 20 21 f P o l r a m i n t p i f r f o v o i p d t e s d t o b f y i l t e h e a n C a l e m r k e n o d f e C d o c u o r m t, p a l c a k i n n t o o w n l e t h d e g e s h e w i l l i n c u r t h e C o u r t ’ s f i l i n g f e e, e v e n i f h e i s 22 granted leave to proceed in forma pauperis, and provides his proposed amended complaint with this 23 notice of election form.

24 (Check this box if submitting an Amended Complaint) 25 DATED:
_____ 26 Plaintiff 27 28