

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Hudson v. Phillips

No. 2:23-cv-01821 SCR P (E.D. Cal. June 20, 2025) · No. No. 2:23-cv-01821 SCR P · Decided June 23, 2025

SUMMARY

The United States District Court for the Eastern District of California screened Deondre T. Hudson’s first amended 42 U.S.C. § 1983 complaint under 28 U.S.C. § 1915A and found that it failed to state cognizable Eighth or First Amendment claims. The court declined to serve the complaint but granted leave to file a second amended complaint within 30 days, warning that failure to do so could result in dismissal.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Sean C. Riordan
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	June 23, 2025
DOCKET	No. 2:23-cv-01821 SCR P
DISPOSITION	other
PROCEDURAL POSTURE	Screening of a prisoner’s first amended complaint under 28 U.S.C. § 1915A.
STANDARD OF REVIEW	Under 28 U.S.C. § 1915A, the court must dismiss a prisoner complaint or claim that is frivolous, malicious, fails to state a claim, or seeks monetary relief from an immune defendant. In assessing whether a complaint states a claim, the court accepts factual allegations as true and construes them in the light most favorable to the plaintiff, but conclusory allegations and formulaic recitations of elements are insufficient.
PRECEDENTIAL VALUE	unpublished

TOPICS

- prisoners rights
- section 1983
- first amendment
- cruel and unusual punishment
- pleadings

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the first amended complaint stated a cognizable Eighth Amendment conditions-of-confinement claim based on the alleged risk of COVID-19 exposure.
2. Whether the first amended complaint stated an Eighth Amendment deliberate-indifference claim based on denial of a lower bunk, blanket, or seizure medication.
3. Whether the first amended complaint stated a First Amendment claim based on the handling of outgoing legal mail.
4. Whether plaintiff should be granted leave to amend after the first amended complaint failed to state a claim.

HOLDINGS

1. A prisoner must allege both an objectively sufficiently serious deprivation or risk and that the defendant subjectively acted with deliberate indifference to that risk. Although involuntary exposure to COVID-19 may satisfy the objective prong, plaintiff's allegations did not show that defendants disregarded a particularized risk of infection or violated mandated jail safety measures.
2. The complaint did not state a cognizable Eighth Amendment claim based on denial of plaintiff's lower-bunk and blanket medical chronos because it did not allege the duration of the deprivations, the seriousness of the conditions, or resulting injury sufficient to determine that the deprivations were objectively serious.
3. The complaint did not state a cognizable deliberate-indifference claim concerning seizure medication because, although plaintiff alleged a serious medical need, he did not sufficiently allege that any defendant knew of and deliberately disregarded that need or that the alleged withholding caused harm.
4. The complaint did not state a First Amendment claim based on the handling of outgoing legal mail because it did not identify the recipients or establish that the mail was protected attorney-client legal mail, and it did not allege that defendant Payne intentionally read or opened the mail or otherwise took a prohibited action.
5. Because the first amended complaint's defects might be curable through more specific allegations, plaintiff was granted thirty days to file a second amended complaint, and the complaint was not ordered served.

KEY QUOTATIONS

"The critical inquiry is whether a constitutional claim, however inartfully pleaded, has an arguable legal and factual basis." (at 1)

"While conditions of confinement may be, and often are, restrictive and harsh, they must not involve the wanton and unnecessary infliction of pain." (at 4)

"Not all handling of incarcerated persons' legal mail violates the First Amendment." (at 9)

“Because of these defects, the court will not order the complaint to be served on defendants.” (at 10)

FACTUAL BACKGROUND

Plaintiff alleged that Sacramento County Jail deputies mistakenly rehoused him after a medical appointment, despite his asserted COVID-19 risk factors and medical chronos for a lower bunk, blankets, and seizure medication. He alleged that he was placed in a cell with another quarantined person, denied certain items and medication, and experienced stress and fear of illness or seizure. He also alleged that a records officer mishandled three envelopes of outgoing legal mail, which were later found open and were sealed and signed by another deputy.

PROCEDURAL HISTORY

Plaintiff, proceeding pro se and in forma pauperis, filed a civil-rights action under 42 U.S.C. § 1983 concerning events at Sacramento County Jail. The court screened the first amended complaint and determined that it failed to state cognizable Eighth or First Amendment claims. The court declined to order service, granted plaintiff thirty days to file a second amended complaint, and directed that failure to amend would result in a recommendation of dismissal under Federal Rule of Civil Procedure 41(b).

DISPOSITION

other

CASES CITED

- Neitzke v. Williams, 490 U.S. 319, 325, 327 (1989)
- Jackson v. Arizona, 885 F.2d 639, 640 (9th Cir. 1989)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-557, 570 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Erickson v. Pardus, 551 U.S. 89, 93-94 (2007)
- Scheuer v. Rhodes, 416 U.S. 232, 236 (1974)
- Benavidez v. County of San Diego, 993 F.3d 1134, 1144 (9th Cir. 2021)
- Bell v. Williams, 108 F.4th 809, 829 (9th Cir. 2024)
- Parsons v. Alameda Cnty. Sheriff Dep’t, No. 14-cv-4674 HSG, 2016 WL 3877907, at *1 n.3 (N.D. Cal. July 18, 2016)
- Morgan v. Morgensen, 465 F.3d 1041, 1045 (9th Cir. 2006)
- Farmer v. Brennan, 511 U.S. 825, 834-847 (1994)
- Rhodes v. Chapman, 452 U.S. 337, 347 (1981)
- Peralta v. Dillard, 744 F.3d 1076, 1082 (9th Cir. 2014)
- Lemire v. Cal. Dep’t of Corr. & Rehab., 726 F.3d 1062, 1074 (9th Cir. 2013)
- Johnson v. Lewis, 217 F.3d 726, 731-732 (9th Cir. 2000)
- Hudson v. McMillian, 503 U.S. 1, 9 (1992)

- Redman v. County of San Diego, 942 F.2d 1435, 1439 (9th Cir. 1991)
- Hampton v. California, 83 F.4th 754, 766 (9th Cir. 2023)
- Elliott v. Nevada, No. 2:23-CV-0680 JAD NJK, 2024 WL 3489303, at *7 (D. Nev. July 19, 2024)
- Cox v. Bal, No. 2:22-cv-0804 WBS EFB, 2024 WL 4977193, at *1 (E.D. Cal. Dec. 4, 2024)
- Estelle v. Gamble, 429 U.S. 97, 104-106 (1976)
- Jett v. Penner, 439 F.3d 1091, 1096 (9th Cir. 2006)
- Hallett v. Morgan, 296 F.3d 732, 744 (9th Cir. 2002)
- Lopez v. Smith, 203 F.3d 1122, 1131-1132 (9th Cir. 2000)
- McGuckin v. Smith, 974 F.2d 1050, 1059-1060 (9th Cir. 1992)
- WMX Techs., Inc. v. Miller, 104 F.3d 1133 (9th Cir. 1997) (en banc)
- Frost v. Agnos, 152 F.3d 1124, 1130 (9th Cir. 1998)
- Witherow v. Paff, 52 F.3d 264, 265 (9th Cir. 1995) (per curiam)
- Thornburgh v. Abbott, 490 U.S. 401, 413 (1989)
- Nordstrom v. Ryan, 762 F.3d 903, 909 (9th Cir. 2014)
- Keenan v. Hall, 83 F.3d 1083, 1094 (9th Cir. 1996)
- Al-Amin v. Smith, 511 F.3d 1317, 1333 (11th Cir. 2008)
- Jackson v. Quick, No. 1:19-cv-1591 JLT EPG PC, 2022 WL 7688183, at *7 (E.D. Cal. Oct. 13, 2022)
- Sims v. Palacios, No. 2:23-cv-1310 VBF PD, 2024 WL 4744016, at *2 (C.D. Cal. Jan. 9, 2024)
- Ricalls v. Hinton, 2020 WL 2128648, at *5 n.4 (C.D. Cal. May 5, 2020)
- Rizzo v. Goode, 423 U.S. 362, 370-371 (1976)
- Arnold v. International Business Machines Corp., 637 F.2d 1350, 1355 (9th Cir. 1981)
- Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978)
- Ivey v. Board of Regents, 673 F.2d 266, 268 (9th Cir. 1982)
- Loux v. Rhay, 375 F.2d 55, 57 (9th Cir. 1967)

OPINION

(PC) Hudson v. Phillips

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 DEONDRE T. HUDSON, No. 2:23-cv-01821 SCR P

12 Plaintiff, 13 v. ORDER 14 PHILLIPS, et al., 15 Defendants. 16 17 Plaintiff is a county inmate
proceeding pro se and in forma pauperis with a civil rights 18 action under 42 U.S.C. § 1983.
Plaintiff’s first amended complaint (“FAC”) is before the 19 undersigned for screening pursuant to
28 U.S.C. § 1915A. For the reasons set forth below, the 20 undersigns finds that plaintiff’s FAC

fails to state any cognizable claims. Plaintiff will be given 21 an opportunity to file a second amended complaint.

22 STATUTORY SCREENING OF PRISONER COMPLAINTS

23 The court is required to screen complaints brought by prisoners seeking relief against “a 24 governmental entity or officer or employee of a governmental entity.” 28 U.S.C. § 1915A(a). In 25 performing this screening function, the court must dismiss any claim that “(1) is frivolous, 26 malicious, or fails to state a claim upon which relief may be granted; or (2) seeks monetary relief 27 from a defendant who is immune from such relief.” Id. § 1915A(b). A claim is legally frivolous 28 when it lacks an arguable basis either in law or in fact. *Neitzke v. Williams*, 490 U.S. 319, 325 1 (1989). The court may dismiss a claim as frivolous if it is based on an indisputably meritless 2 legal theory or factual contentions that are baseless. *Neitzke*, 490 U.S. at 327. The critical 3 inquiry is whether a constitutional claim, however inartfully pleaded, has an arguable legal and 4 factual basis. See *Jackson v. Arizona*, 885 F.2d 639, 640 (9th Cir. 1989). 5 In order to avoid dismissal for failure to state a claim a complaint must contain more than 6 “naked assertions,” “labels and conclusions” or “a formulaic recitation of the elements of a cause 7 of action.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-557 (2007). In other words, 8 “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory 9 statements do not suffice.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A claim upon which the 10 court can grant relief has facial plausibility. *Twombly*, 550 U.S. at 570. “A claim has facial 11 plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable 12 inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 678. When 13 considering whether a complaint states a claim, the court must accept the allegations as true, 14 *Erickson v. Pardus*, 551 U.S. 89, 93-94 (2007), and construe the complaint in the light most 15 favorable to the plaintiff, *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974).

16 PLAINTIFF’S FAC

17 I. Factual Allegations 18 Plaintiff’s FAC concerns events at Sacramento County Jail in 2022. It names four 19 defendants: (1) Deputy Phillips; (2) Ms. Payne, a Records Officer; (3) Deputy Tambini; and (4) 20 Deputy Vue. (ECF No. 7 at 2.) The FAC alleges an Eighth Amendment threat to safety violation 21 and a First Amendment outgoing mail violation. (Id. at 3-4.) Plaintiff requests a notice of 22 complaint placed in each defendant’s file, training on their respective positions, an “inquiry” into 23 their previous misconduct, and monetary compensation in an unspecified amount. (Id. at 6.) 24 A. Allegations Regarding Conditions in Temporary Rehousing Unit 25 On July 13, 2022, plaintiff left Sacramento County Jail for a doctor’s appointment. (ECF 26 No. 7 at 3.) When plaintiff returned, defendants Deputy Tambini and Deputy Vue told him he 27 was being rehoused for being transported on a “med run.” (Id.) Plaintiff informed them that they 28 were mistaken and that it was a scheduled visit, which could be confirmed by the nurses down the 1 hall. Defendants Tambini and Vue refused to confirm. (Id.) 2 Plaintiff reported to the new housing and relayed the same message to defendant Deputy 3 Phillips and a Deputy Smith.

(ECF No. 7 at 3.) Defendant Phillips told plaintiff to take it up with 4 Classification. Plaintiff informed them of pre-existing conditions that placed him at high risk for 5 suffering and death from COVID-19, and his previous illness on January 3, 2022. (Id.) 6 Defendant Phillips stated that he “didn’t have time,” “didn’t care,” and that “everybody gets 7 [COVID]” so plaintiff should “man up.” Smith said nothing when plaintiff appealed to him. (Id.) 8 Plaintiff was then coerced into a cell and assigned a top bunk. (Id. 3.) Plaintiff pleaded to be 9 housed alone until medical sorted things out. Defendant Phillips told him to “get the fuck into the 10 cell.” (Id.) Plaintiff informed Phillips of his lower bunk chrono dated December 30, 2020, for 11 seizures, diabetic foot neuropathy, and degenerative disc disease. Nothing was done. (Id.) 12 Once inside of the cell, plaintiff pressed the medical emergency button. Defendant Payne 13 said that it was not an emergency, and that plaintiff was being a problem. (ECF No. 7 at 3.) 14 Plaintiff was refused blankets and his seizure medications by the deputies, despite having chronos 15 for both. (Id.) Plaintiff slept on the floor with no blanket. Later that night, a Deputy Barrera 16 contacted Classification and confirmed the rehousing was an error. However, plaintiff had to stay 17 on quarantine because officers had forced him into a cell with someone else on quarantine. (Id.) 18 Plaintiff alleges that he was “stressed out” for two weeks from the thoughts of catching COVID-19 19 and feared having seizures without his medications, and in fact had a seizure on January 3, 20 2022, the last time he was without his medications for days. (Id.) 21 B. Allegations Regarding Outgoing Legal Mail 22 On July 15, 2022, plaintiff had three envelopes of legal mail to process. (ECF No. 7 at 4.) 23 He gave them to defendant Deputy Phillips, who gave them to defendant Record Officer Payne. 24 (Id.) Defendant Payne took the envelopes to her desk with her back to plaintiff. Plaintiff pressed 25 the intercom alerting Payne that he was still waiting. Defendant Payne screamed and cursed at 26 plaintiff, stating that she already signed them and that he needed to return to his cell. (Id.) 27 Plaintiff responded that he needed to see his legal mail properly processed as procedure dictates. 28 Deputy Smith entered the booth, spoke with Payne, retrieved the three envelopes, and brought 1 them out of the booth. The envelopes were open and not sealed or signed as she stated. Deputy 2 Smith then sealed and signed all three. (Id.) Plaintiff alleges his right to confidentiality was 3 violated as Payne personally mishandled and concealed legal correspondence that “detail[ed] my 4 treatment by her and her deputies.” (Id.)

5 DISCUSSION

6 I. Plaintiff’s FAC Fails to State Cognizable § 1983 Claims 7 A plaintiff may bring an action under 42 U.S.C. § 1983 to redress violations of “rights, 8 privileges, or immunities secured by the Constitution and [federal] laws” by a person or entity, 9 including a municipality, acting under the color of state law. 42 U.S.C. § 1983. To state a claim 10 under 42 U.S.C. § 1983, a plaintiff must show that (1) a defendant acting under color of state law 11 (2) deprived plaintiff of rights secured by the Constitution or federal statutes. *Benavidez v. 12 County of San Diego*, 993 F.3d 1134, 1144 (9th Cir. 2021). 13 As explained below, plaintiff’s FAC does not state cognizable § 1983 claims. The FAC 14 contains many of the same deficiencies as plaintiff’s original complaint, including a

failure to 15 allege any concrete harms resulting from defendants' actions.¹ The undersigned will grant 16 plaintiff leave to file a second amended complaint and provides the relevant legal standards for 17 his § 1983 claims, as well as the standards for filing amended complaints. 18 A. Eighth Amendment Conditions of Confinement 19 Plaintiff alleges an Eighth Amendment "threat to safety" claim. (ECF No. 7 at 3.) The 20 undersigned construes this as two separate Eighth Amendment causes of action: (1) a conditions 21 of confinement claim related to exposure to COVID-19; and (2) a medical indifference claim 22 regarding the denial of his lower bunk, blanket, and seizure medication chronos. Plaintiff's 23 1 Plaintiff alleges he was "stressed out" and "distracted" from the thought of contracting 24 COVID-19 and having a seizure but does not allege the requisite "physical injury" necessary to recovery monetary damages. 42 U.S.C. § 1997e(e); see also *Bell v. Williams*, 108 F.4th 809, 829 25 (9th Cir. 2024) ("The [PLRA] requires an incarcerated plaintiff ... to prove a 'physical injury' as 26 a condition of recovering compensatory damages for mental or emotional harms."). This omission bars plaintiff's recovery of damages but does not impact his requests for staff training 27 and other forms of injunctive relief. See *Parsons v. Alameda Cnty. Sheriff Dep't*, No. 14-cv-4674 HSG, 2016 WL 3877907, at *1 n.3 (N.D. Cal. July 18, 2016) (§ 1997e(e) does not preclude § 28 1983 actions for declaratory or injunctive relief (citing *Farmer*, 511 U.S. at 845)). 1 conditions of confinement claim will be addressed first. 2 i. Legal Standard 3 The Eighth Amendment's prohibition against cruel and unusual punishment protects 4 prisoners not only from inhumane methods of punishment but also from inhumane conditions of 5 confinement. *Morgan v. Morgensen*, 465 F.3d 1041, 1045 (9th Cir. 2006) (quotation marks 6 omitted) (citing *Farmer v. Brennan*, 511 U.S. 825, 847 (1994) and *Rhodes v. Chapman*, 452 U.S. 7 337, 347 (1981)). While conditions of confinement may be, and often are, restrictive and harsh, 8 they must not involve the wanton and unnecessary infliction of pain. *Morgan*, 465 F.3d at 1045 9 (citing *Rhodes*, 452 U.S. at 347) (quotation marks omitted). 10 To state an Eighth Amendment conditions of confinement claim, a prisoner must allege 11 facts that satisfy a two-prong test. *Peralta v. Dillard*, 744 F.3d 1076, 1082 (9th Cir. 2014) (citing 12 *Farmer*, 511 U.S. at 837. The first prong is an objective prong, which requires that the 13 deprivation be "sufficiently serious." *Lemire v. Cal. Dep't of Corr. & Rehab.*, 726 F.3d 1062, 14 1074 (9th Cir. 2013) (citing *Farmer*, 511 U.S. at 834). To be sufficiently serious, the prison 15 official's "act or omission must result in the denial of the minimal civilized measure of life's 16 necessities." *Lemire*, 726 F.3d at 1074. The objective prong is not satisfied in cases where prison 17 officials provide prisoners with "adequate shelter, food, clothing, sanitation, medical care, and 18 personal safety." *Johnson v. Lewis*, 217 F.3d 726, 731 (9th Cir. 2000) (quoting *Hoptowit v. Ray*, 19 682 F.2d 1237, 1246 (9th Cir. 1982)). "[R]outine discomfort inherent in the prison setting" does 20 not rise to the level of a constitutional violation. *Id.* at 732 ("[m]ore modest deprivations can also 21 form the objective basis of a violation, but only if such deprivations are lengthy or ongoing"). 22 Rather, extreme deprivations are required to make out a conditions of confinement claim, and 23 only those deprivations denying the minimal civilized measure of life's necessities

are 24 sufficiently grave to form the basis of an Eighth Amendment violation. *Farmer*, 511 U.S. at 834; 25 *Hudson v. McMillian*, 503 U.S. 1, 9 (1992). The circumstances, nature, and duration of the 26 deprivations are critical in determining whether the conditions complained of are grave enough to 27 form the basis of a viable Eighth Amendment claim. *Johnson*, 217 F.3d at 731. 28 The second prong focuses on the subjective intent of the prison official. *Peralta*, 774 F.3d 1 at 1082 (9th Cir. 2014) (citing *Farmer*, 511 U.S. at 837). The deliberate indifference standard 2 requires a showing that the prison official acted or failed to act despite the prison official's 3 knowledge of a substantial risk of serious harm to the prisoner. *Id.* (citing *Farmer*, 511 U.S. at 4 842); see also *Redman v. Cnty. of San Diego*, 942 F.2d 1435, 1439 (9th Cir. 1991). Mere 5 negligence on the part of the prison official is not sufficient to establish liability. *Farmer*, 511 6 U.S. at 835. 7 ii. Analysis 8 Involuntary exposure to COVID-19 can satisfy the objective prong of the Eighth 9 Amendment analysis. See *Hampton v. California*, 83 F.4th 754, 766 (9th Cir. 2023) (shelter-in- 10 place orders and mask mandates punishable by law supported allegation of "intolerably grave" 11 risks from involuntary exposure to COVID-19). Here, the FAC's allegations support the 12 inference that Sacramento County Jail implemented a quarantine procedure to reduce the spread 13 of COVID-19. For screening purposes, this is minimally sufficient to establish the "sufficiently 14 serious" risks of exposure to COVID-19. See *Elliott v. Nevada*, No. 2:23-CV-0680 JAD NJK, 15 2024 WL 3489303, at *7 (D. Nev. July 19, 2024) (mandated safety measures to reduce spread of 16 COVID-19, including quarantine procedures, were sufficient to establish objective prong of 17 Eighth Amendment analysis on screening (citing *Hampton*, 83 F.4th at 766)). 18 However, the FAC's allegations do not satisfy the subjective prong of the Eighth 19 Amendment analysis. "[I]n examining whether a prison official subjectively acted with deliberate 20 indifference to the risk of COVID-19, the key inquiry ... is whether [he] 'responded reasonably to 21 the risk.'" *Cox v. Bal*, No. 2:22-cv-0804 WBS EFB, 2024 WL 4977193, at *1 (E.D. Cal. Dec. 4, 22 2024) (citations omitted). While defendants Tambini, Vue, and Phillips dismissed plaintiff's 23 health concerns, the allegations do not support an inference that they disregarded a specific risk of 24 infection in the unit, such as housing plaintiff with a COVID-positive cellmate. Nor does the 25 FAC allege that defendants' actions ran afoul of any mandated safety measures in the jail. 26 For these reasons, plaintiff has not stated a conditions of confinement claim regarding 27 exposure to COVID-19. The undersigned will grant plaintiff an opportunity to file an amended 28 complaint. If plaintiff chooses to amend, he is advised to allege a particularized risk of COVID- 1 19 and how defendants were deliberately indifferent to that risk, as well as a resulting injury. 2 B. Eighth Amendment Deliberate Indifference to Serious Medical Needs 3 i. Legal Standard 4 Denial or delay of medical care for a prisoner's serious medical needs may constitute a 5 violation of the prisoner's Eighth and Fourteenth Amendment rights. *Estelle v. Gamble*, 429 U.S. 6 97, 104-05 (1976). An individual is liable for such a violation only when the individual is 7 deliberately indifferent to a prisoner's serious medical needs. *Id.*; see *Jett v. Penner*, 439 F.3d 8 1091, 1096 (9th Cir. 2006); *Hallett v. Morgan*, 296 F.3d 732, 744 (9th Cir. 2002); *Lopez v. 9 Smith*, 203 F.3d 1122,

1131-32 (9th Cir. 2000). 10 In the Ninth Circuit, the test for medical deliberate indifference consists of two parts. Jett, 11 439 F.3d at 1096, citing *McGuckin v. Smith*, 974 F.2d 1050 (9th Cir. 1991), overruled on other 12 grounds by *WMX Techs., Inc. v. Miller*, 104 F.3d 1133 (9th Cir. 1997) (en banc). First, the 13 plaintiff must show a “serious medical need” by demonstrating that “failure to treat a prisoner’s 14 condition could result in further significant injury or the ‘unnecessary and wanton infliction of 15 pain.’” *Id.* (citing *Estelle*, 429 U.S. at 104). “Examples of serious medical needs include ‘[t]he 16 existence of an injury that a reasonable doctor or patient would find important and worthy of 17 comment or treatment; the presence of a medical condition that significantly affects an 18 individual’s daily activities; or the existence of chronic and substantial pain.’” *Lopez*, 203 F. 3d 19 at 1131-32 (citing *McGuckin*, 974 F.2d at 1059-60). 20 Second, the plaintiff must show the defendant’s response to the need was deliberately 21 indifferent. Jett, 439 F.3d at 1096. This second prong is satisfied by showing (a) a purposeful act 22 or failure to respond to a prisoner’s pain or possible medical need and (b) harm caused by the 23 indifference. *Id.* Under this standard, the prison official must not only “be aware of facts from 24 which the inference could be drawn that a substantial risk of serious harm exists,” but that person 25 “must also draw the inference.” *Farmer*, 511 U.S. at 837. This “subjective approach” focuses 26 only “on what a defendant’s mental attitude actually was.” (*Id.* at 839.) A showing of merely 27 negligent medical care is not enough to establish a constitutional violation. *Frost v. Agnos*, 152 28 F.3d 1124, 1130 (9th Cir. 1998) (citing *Estelle*, 429 U.S. at 105-106). 1 ii. Lower Bunk and Blank Chronos 2 Plaintiff has not stated an Eighth Amendment claim regarding defendants’ disregard for 3 his lower bunk or blanket chronos. The risks associated with an upper bunk can rise to the level 4 of a sufficiently serious risk under the Eighth Amendment. See, e.g., *West v. Pettigew*, No. 2-11- 5 cv-1692 JAM JFM PC, 2013 WL 85380, *2 (E.D. Cal. Jan. 8, 2013) (denying defendants motion 6 to dismiss plaintiff’s Eighth Amendment claim where plaintiff alleged prison officials disregarded 7 his lower bunk chrono for months and he suffered a fall). But here, it is not evident how long 8 plaintiff was denied access to a lower bunk or whether he suffered any injuries as a result. 9 Similarly, the FAC does not state how long plaintiff went without a blanket or whether the unit 10 was cold. The undersigned cannot determine whether these alleged deprivations were objectively 11 serious enough to state a claim without further information regarding their duration and any 12 resulting harms. See *Farmer*, 511 U.S. at 834 (conditions must result in the denial of the minimal 13 civilized measure of life’s necessities to rise to an Eighth Amendment violation). 14 iii. Plaintiff’s Seizure Medication 15 The FAC’s allegations that plaintiff has a seizure condition and had a seizure in January 16 2022 the last time his medication was withheld are sufficient to plead a “serious medical need.” 17 See *Tufono v. Dhillion*, No. 2:23-cv-2691 DB P, 2024 WL 1559171, at *1 (E.D. Cal. Mar. 4, 18 2024) (screening in medical indifference claim where prisoner-plaintiff alleged prison physicians 19 failed to provide anti-seizure medication despite his history of seizures). However, plaintiff has 20 not sufficiently alleged any defendant’s deliberate indifference to his condition. The FAC does 21 not

expressly name the deputies who denied his medication; defendant Payne refused to respond 22 to plaintiff's emergency calls, but there are no facts in which to her infer her knowledge of 23 plaintiff's seizure condition or approved seizure medication. Nor does plaintiff allege he had a 24 seizure or suffered any other harm from defendants' alleged indifference other than being 25 "stressed out." See McGuckin, 974 F.2d at 1060 (where the claim is based on delay in treatment, 26 "a prisoner can make 'no claim for deliberate medical indifference unless the denial was 27 harmful.'" (quoting *Shapley v. Nevada Board of State Prison Comm'rs*, 766 F.2d 404, 407 (9th Cir.1985) (per curiam))). Accordingly, plaintiff's FAC does not state a cognizable Eighth 1 Amendment medical indifference claim regarding the withholding of his seizure medication. 2 C. First Amendment Outgoing Legal Mail 3 i. Legal Standard 4 Under the First Amendment, prisoners have a right to send and receive mail. *Witherow v. 5 Paff*, 52 F.3d 264, 265 (9th Cir. 1995) (per curiam). Courts have afforded greater protection to 6 legal mail than non-legal mail. See *Thornburgh v. Abbott*, 490 U.S. 401, 413 (1989). In the 7 Ninth Circuit, prisoners have a "protected First Amendment interest in having properly marked, 8 confidential legal mail opened only in their presence." *Hayes v. Idaho Corr. Ctr.*, 849 F.3d 1204, 9 1211 (9th Cir. 2017). However, only mail from plaintiff's lawyer or prospective lawyer is 10 protected. See *Nordstrom v. Ryan*, 762 F.3d 903, 909 (9th Cir. 2014) (describing the right at 11 issue as the right to be free from "prison officials reading mail between a prisoner and his 12 lawyer"); *Keenan v. Hall*, 83 F.3d 1083, 1094 (9th Cir. 1996) ("mail from the courts, as 13 contrasted with mail from a prisoner's lawyer, is not legal mail"). As to communication with 14 counsel, a plaintiff need not "'show any actual injury beyond the free speech violation itself to 15 state a constitutional claim.'" *Hayes*, 849 F.3d at 1212 (quoting *Al-Amin v. Smith*, 511 F.3d 16 1317, 1333 (11th Cir. 2008)). 17 ii. Analysis 18 Plaintiff's allegation that his "right to confidentiality was violated" when defendant Payne 19 "mishandled and concealed his legal correspondence" does not state a cognizable First 20 Amendment Claim. (Id.) The FAC's claim fails for two reasons. First, because the FAC does 21 not identify the mail's recipients, the undersigned cannot determine whether the communications 22 were protected (i.e., addressed to plaintiff's lawyer or prospective lawyer). "To prove a violation 23 regarding legal mail, a plaintiff must 'clarify who sent the mail or whether it was properly marked 24 as 'legal mail.'" *Jackson v. Quick*, No. 1:19-cv-1591 JLT EPG PC, 2022 WL 7688183, at *7 25 (E.D. Cal. Oct. 13, 2022) (quoting *Hayes*, 849 F.3d at 1211), report and recommendation adopted,

26 No. 1:19-cv-1591 JLT EPG PC, 2023 WL 24180 (E.D. Cal. Jan. 3, 2023).

27 Second, the FAC does not allege what specific, impermissible actions defendant Payne 28 took while in possession of plaintiff's mail. Not all handling of incarcerated persons' legal mail 1 violates the First Amendment. For instance, prison officials are permitted to inspect, but not read, 2 an inmate's outgoing legal mail. *Nordstrom v. Ryan*, 856 F.3d 1265, 1272 (9th Cir. 2017). 3 Further, "a plaintiff must show that the opening of legal mail was due to more than negligence to 4 state a constitutional violation." *Jackson*, 2022 WL 7688183, at *7 (citing *Stevenson v. Koskey*, 5

877 F.2d 1435, 1441 (9th Cir. 1989)). “A single instance of opening legal mail outside the 6 presence of an individual in custody, ‘without allegations showing prison staff acted deliberately 7 as opposed to merely inadvertently,’ is insufficient to state a constitutional violation.” *Sims v. 8 Palacios*, No. 2:23-cv-1310 VBF PD, 2024 WL 4744016, at *2 (C.D. Cal. Jan. 9, 2024) (quoting 9 *Ricalls v. Hinton*, 2020 WL 2128648, at *5, n. 4 (C.D. Cal. May 5, 2020)). 10 Here, even assuming defendant Payne’s statements that she signed and sealed the 11 envelopes were untruthful, the FAC does not allege that she read the correspondence, opened the 12 envelopes intentionally, or took any other prohibited action. The significance of Deputy Smith 13 finding the envelopes open is unclear because the FAC does not state whether plaintiff presented 14 them to defendants Phillips and Payne sealed or unsealed. The FAC suggests Payne’s actions 15 were improper but does not explain how or identify a specific procedure. For these reasons, 16 plaintiff’s FAC fails to allege a First Amendment violation regarding his outgoing legal mail. 17 II. Leave to Amend 18 Having conducted the screening required by 28 U.S.C. § 1915A, the court finds that 19 plaintiff’s FAC does not state valid claims for relief under the Eighth Amendment or the First 20 Amendment. Plaintiff’s Eighth Amendment claims fail because he does not identify a specific 21 risk of COVID-19 that defendants disregarded or explain how long he was denied his various 22 medical chronos. Further, plaintiff has not alleged any unlawful action taken by defendants 23 Phillips or Payne while they possessed his legal mail, or that his legal mail was a protected 24 attorney/client communication. Because of these defects, the court will not order the complaint to 25 be served on defendants. 26 Plaintiff may try to fix these problems by filing an amended complaint. If plaintiff 27 chooses to file an amended complaint, he must demonstrate how the conditions about which he 28 complains resulted in a deprivation of his constitutional rights. *Rizzo v. Goode*, 423 U.S. 362, 1 370-71 (1976). Plaintiff is advised to consider the Eighth Amendment and First Amendment 2 legal standards reproduced above. 3 Moreover, the complaint must also allege in specific terms how each named defendant is 4 involved. *Arnold v. Int’l Bus. Machs. Corp.*, 637 F.2d 1350, 1355 (9th Cir. 1981). There can be 5 no liability under 42 U.S.C. § 1983 unless there is some affirmative link or connection between a 6 defendant’s actions and the claimed deprivation. *Id.*; *Johnson v. Duffy*, 588 F.2d 740, 743 (9th 7 Cir. 1978). Furthermore, “[v]ague and conclusory allegations of official participation in civil 8 rights violations are not sufficient.” *Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982) 9 (citations omitted). 10 Plaintiff is also informed that the court cannot refer to a prior pleading in order to make 11 his amended complaint complete. Local Rule 220 requires that an amended complaint be 12 complete in itself without reference to any prior pleading. This is because, as a general rule, an 13 amended complaint supersedes any prior complaints. *Loux v. Rhay*, 375 F.2d 55, 57 (9th Cir. 14 1967) (citations omitted). Once plaintiff files an amended complaint, any previous complaint no 15 longer serves any function in the case. Therefore, in an amended complaint, as in an original 16 complaint, each claim and the involvement of each defendant must be sufficiently alleged.

17 CONCLUSION

18 In accordance with the above, IT IS HEREBY ORDERED that: 19 1. Plaintiff’s complaint fails
to state a claim upon which relief may be granted, see 28 20 U.S.C. § 1915A, and will not be
served. 21 2. Within thirty (30) days from the date of service of this order, plaintiff may file an 22
amended complaint that complies with the requirements of the Civil Rights Act, the Federal Rules
23 of Civil Procedure, and the Local Rules of Practice. The amended complaint must bear the 24
docket number assigned this case, Case No. 2:23-cv-01821 SCR P, and must be labeled “Second
25 Amended Complaint.” 26 3. Failure to file an amended complaint in accordance with this order
will result in a 27 recommendation that this action be dismissed pursuant to Rule 41(b) of the
Federal Rules of Civil 28 Procedure.] 4. The Clerk of the Court is directed to send plaintiff a copy
of the prisoner complaint 2 | form used in this district. 3 || DATED: June 20, 2025 ' kmh

5 SEAN C. RIORDAN

6 UNITED STATES MAGISTRATE JUDGE

7 8 9 10 1] 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 12