

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

Silva v. Department of Corrections

No. 2:25-cv-1591-DMC-P (E.D. Cal. June 13, 2025) · No. 2:25-cv-1591-DMC-P · Decided June 16, 2025

OPINION

(PC) Silva v. Department of Corrections

PER CURIAM.

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8 IN THE UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 ALBERT SILVA, No. 2:25-cv-1591-DMC-P 12 Plaintiff, 13 v. ORDER

14 DEPARTMENT OF CORRECTIONS,

15 Defendant. 16

17 Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 18 42 U.S.C. §
1983. Pending before the Court is Plaintiff’s original complaint, ECF No. 1. 19 The Court is
required to screen complaints brought by prisoners seeking relief 20 against a governmental entity
or officer or employee of a governmental entity. See 28 U.S.C. 21 § 1915A(a). This provision also
applies if the plaintiff was incarcerated at the time the action was 22 initiated even if the litigant
was subsequently released from custody. See *Olivas v. Nevada ex rel. 23 Dep’t of Corr.*, 856 F.3d
1281, 1282 (9th Cir. 2017). The Court must dismiss a complaint or 24 portion thereof if it: (1) is
frivolous or malicious; (2) fails to state a claim upon which relief can 25 be granted; or (3) seeks
monetary relief from a defendant who is immune from such relief. See 26 28 U.S.C. § 1915A(b)
(1), (2). 27 / / / 28 / / / 1 Moreover, the Federal Rules of Civil Procedure require that complaints
contain a 2 “. . . short and plain statement of the claim showing that the pleader is entitled to
relief.” Fed. R. 3 Civ. P. 8(a)(2). This means that claims must be stated simply, concisely, and
directly. See 4 *McHenry v. Renne*, 84 F.3d 1172, 1177 (9th Cir. 1996) (referring to Fed. R. Civ. P.
8(e)(1)). 5 These rules are satisfied if the complaint gives the defendant fair notice of the
plaintiff’s claim 6 and the grounds upon which it rests. See *Kimes v. Stone*, 84 F.3d 1121, 1129
(9th Cir. 1996). 7 Because Plaintiff must allege with at least some degree of particularity overt
acts by specific 8 defendants which support the claims, vague and conclusory allegations fail to
satisfy this 9 standard. Additionally, it is impossible for the Court to conduct the screening
required by law 10 when the allegations are vague and conclusory. 11

12 I. PLAINTIFF’S ALLEGATIONS

13 Plaintiff, an inmate at Folsom State Prison, names as the only defendant 14 “Department of
Corrections,” elsewhere referred to in the complaint as the “Department of 15 Corrections and

Rehabilitation,” presumably meaning the California Department of Corrections 16 and Rehabilitation. See ECF No. 1. Plaintiff claims that his central file incorrectly contains an 17 “R-suffix,” which prevents Plaintiff from participating in certain programs and which can result 18 in a risk to his safety from other inmates who know of the classification. See id. at 3. Plaintiff 19 states that an “R-suffix” labels an inmate as a sex offender. See id. Plaintiff states that his arrest 20 and related records have been ordered by the state court to be sealed but that, despite this order, 21 the prison has failed to destroy these records and, as a result, his central file lists him as a sex 22 offender with an “R-suffix.” See id. Plaintiff seeks injunctive relief in the form of an order 23 directing the prison to destroy the sealed records and remove the “R-suffix” classification from 24 his central file. See id. at 4. 25 /// 26 /// 27 /// 28 ///

1 II. DISCUSSION

2 Plaintiff’s action cannot proceed as against the only named defendant, 3 “Department of Corrections,” which appears to refer to the California Department of Corrections 4 and Rehabilitation. The Eleventh Amendment prohibits federal courts from hearing suits brought 5 against a state both by its own citizens, as well as by citizens of other states. See *Brooks v.* 6 *Sulphur Springs Valley Elec. Coop.*, 951 F.2d 1050, 1053 (9th Cir. 1991). This prohibition 7 extends to suits against states themselves, and to suits against state agencies. See *Lucas v. Dep’t* 8 *of Corr.*, 66 F.3d 245, 248 (9th Cir. 1995) (per curiam); *Taylor v. List*, 880 F.2d 1040, 1045 (9th 9 Cir. 1989). A state’s agency responsible for incarceration and correction of prisoners is a state 10 agency for purposes of the Eleventh Amendment. See *Alabama v. Pugh*, 438 U.S. 781, 782 11 (1978) (per curiam); *Hale v. Arizona*, 993 F.2d 1387, 1398-99 (9th Cir. 1993) (en banc). 12 Plaintiff will be provided an opportunity to amend his complaint to name the 13 appropriate prison official(s) who can answer to Plaintiff’s claim regarding documents in his 14 central file inappropriately reflecting an “R-suffix” classification. 15

16 III. CONCLUSION

17 Because it is possible that the deficiencies identified in this order may be cured by 18 amending the complaint, Plaintiff is entitled to leave to amend prior to dismissal of the entire 19 action. See *Lopez v. Smith*, 203 F.3d 1122, 1126, 1131 (9th Cir. 2000) (en banc). Plaintiff is 20 informed that, as a general rule, an amended complaint supersedes the original complaint. See 21 *Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992). Thus, following dismissal with leave to 22 amend, all claims alleged in the original complaint which are not alleged in the amended 23 complaint are waived. See *King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1987). Therefore, if 24 Plaintiff amends the complaint, the Court cannot refer to the prior pleading in order to make 25 Plaintiff's amended complaint complete. See Local Rule 220. An amended complaint must be 26 complete in itself without reference to any prior pleading. See id. 27 / / / 28 / / /] If Plaintiff chooses to amend the complaint, Plaintiff must demonstrate how the 2 || conditions complained of have resulted in a deprivation of Plaintiffs constitutional rights. See 3 || *Ellis v. Cassidy*, 625 F.2d 227 (9th Cir. 1980). The complaint must allege in specific terms how 4 | each named defendant is

involved and must set forth some affirmative link or connection between 5 || each defendant's actions and the claimed deprivation. See *May v. Enomoto*, 633 F.2d 164, 167 6 || (9th Cir. 1980); *Johnson v. Duffy*, 588 F.2d 740, 743 (9th Cir. 1978). 7 Finally, Plaintiff is warned that failure to file an amended complaint within the 8 | time provided in this order may be grounds for dismissal of this action. See *Ferdik*, 963 F.2d at 9 || 1260-61; see also Local Rule 110. Plaintiff is also warned that a complaint which fails to comply 10 || with Rule 8 may, in the Court's discretion, be dismissed with prejudice pursuant to Rule 41(b). 11 || See *Nevijel v. North Coast Life Ins. Co.*, 651 F.2d 671, 673 (9th Cir. 1981). 12 Accordingly, IT IS HEREBY ORDERED that: 13 1. Plaintiff's complaint is dismissed with leave to amend; and 14 2. Plaintiff shall file a first amended complaint within 30 days of the date of 15 || service of this order. 16 = Dated: June 13, 2025 GC 18 DENNIS M. COTA

UNITED STATES MAGISTRATE JUDGE

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