

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

APR 16 2021

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

MICHAEL IZELL SEALS,

Plaintiff-Appellant,

v.

K. ALLISON; et al.,

Defendants-Appellees.

No. 20-17432

D.C. No. 3:19-cv-06149-CRB
Northern District of California,
San Francisco

ORDER

Before: CLIFTON, MURGUIA, and BRESS, Circuit Judges.

Upon a review of the record, the responses to the February 8, 2021 order to show cause, and the opening brief received on December 28, 2020, we conclude this appeal is frivolous. We therefore deny appellant's motion to proceed in forma pauperis (Docket Entry No. 5), *see* 28 U.S.C. § 1915(a), and dismiss this appeal as frivolous, pursuant to 28 U.S.C. § 1915(e)(2) (court shall dismiss case at any time, if court determines it is frivolous or malicious).

DISMISSED.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL IZELL BROWN-SEALS,

Plaintiff,

v.

K. ALLISON, et al.,

Defendants.

Case No. C19-cv-06149JSC

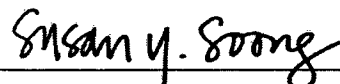
ORDER REASSIGNING CASE

IT IS ORDERED that this case has been reassigned using a proportionate, random and blind system pursuant to General Order No. 44 to the Honorable Charles R. Breyer in the San Francisco division for all further proceedings. Counsel are instructed that all future filings shall bear the initials CRB immediately after the case number.

All hearing and trial dates presently scheduled are vacated. However, existing briefing schedules for motions remain unchanged. Motions must be renoticed for hearing before the judge to whom the case has been reassigned, but the renoticing of the hearing does not affect the prior briefing schedule. Other deadlines such as those for ADR compliance and discovery cutoff also remain unchanged.

Dated: October 1, 2019

CLERICAL ERROR



Susan Y. Soong
Clerk, United States District Court

A true and correct copy of this order has been served by mail upon any pro se parties.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL IZELL BROWN-SEALS, V77488,
Plaintiff,
v.
K. ALLISON, et al.,
Defendant(s).

Case No. 19-cv-06149-CRB (PR)

**ORDER OF DISMISSAL WITH
LEAVE TO AMEND**

(ECF No. 3)

On April 25, 2019, Plaintiff Michael Izell Brown-Seals, a former state prisoner now on parole in Mendocino County, filed a pro se civil action in Mendocino County Superior Court against more than 80 state and local government defendants. In plaintiff's voluminous and confusing 1,000-plus-page complaint and exhibits, he appears to claim that some defendants improperly enforced parole conditions that resulted in the revocation of his prior parole in Mendocino County and that some defendants violated many of his federal rights while he was incarcerated at California State Prison, Corcoran (CSP – COR). On September 11, 2019, after some of the defendants were served and answered, plaintiff moved the superior court for leave to file an amended complaint that, in addition to reasserting his voluminous and confusing allegations of wrongdoing in Mendocino County and CSP – COR, appears to add new defendants and voluminous and confusing allegations of additional wrongdoing at Centinela State Prison (CEN), where plaintiff was incarcerated before he again was released on parole in February 2020.

On September 27, 2019, the served defendants (defendants) removed plaintiff's action to this court pursuant to 28 U.S.C. § 1441 on the ground that this court has original jurisdiction over plaintiff's federal claims under 42 U.S.C. § 1983.

Currently before the court is defendants' motion that the court screen plaintiff's proposed amended complaint pursuant to 28 U.S.C. § 1915A. The motion (ECF No. 3) is GRANTED. Section 1915A requires federal courts to screen cases in which prisoners seek redress from a

1 governmental entity or officer or employee of a governmental entity by identifying cognizable
2 claims or dismissing the complaint, or any portion of the complaint, if the complaint “is frivolous,
3 malicious, or fails to state a claim upon which relief may be granted,” or “seeks monetary relief
4 from a defendant who is immune from such relief.” 28 U.S.C. § 1915A(b).

5 Since defendants removed plaintiff’s action to this court and requested that the court
6 screen plaintiff’s proposed amended complaint, plaintiff has filed over 1,000 pages of additional
7 prolix and confusing supplemental pleadings, progress reports and exhibits. In them, he appears to
8 rehash much of the purported wrongdoing he has attempted to allege in the original and proposed
9 amended complaints but also appears to add new allegations of wrongdoing. This will not do.

10 Although “verbosity or length” is not by itself a basis for dismissing a complaint, a
11 complaint must be “coherent” and “well-organized.” Hearns v. San Bernardino Police Dept., 530
12 F.3d 1124, 1131 (9th Cir. 2008). Plaintiff’s original complaint and proposed amended complaint
13 are neither. Nor are his unsolicited supplemental pleadings, progress reports and exhibits.
14 Plaintiff’s “prolix” and “confusing” original and proposed amended complaints and pleadings are
15 unacceptable because they impose “unfair burdens on litigants and judges.” McHenry v. Renne, 84
16 F.3d 1172, 1179 (9th Cir. 1996). Plaintiff’s original and proposed amended complaints (as well as
17 his unsolicited supplemental pleadings and reports) are DISMISSED with leave to amend to file a
18 simple and concise second amended complaint that complies with Federal Rule of Civil Procedure
19 8(a)(2)’s requirement of “a short and plain statement of the claim” and makes clear “who is being
20 sued, for what relief, and on what theory” Id. at 1177-78.

21 Plaintiff is reminded that claims arising from events or omissions that occurred in
22 Mendocino County generally may be brought in this court, the Northern District of California.
23 See 28 U.S.C. § 84(a). But claims arising from events or omissions that occurred at CSP – COR
24 occurred in Kings County and generally should be brought in the Eastern District of California,
25 see id. § 84(b), and claims arising from events or omissions that occurred at CEN occurred in
26 Imperial County and generally should be brought in the Southern District of California, see id. §
27 84(d).

28 Plaintiff also is reminded that “multiple claims against a single party are fine, but Claim A
against Defendant 1 should not be joined with unrelated Claim B against Defendant 2.” George v.
Smith, 507 F.3d 605, 607 (7th Cir. 2007). Parties may be joined as defendants in one action only
“if any right to relief is asserted against them jointly, severally, or in the alternative with respect to
or arising out of the same transaction, occurrence, or series of transactions or occurrences; and any
question of law or fact common to all defendants will arise in the action.” Fed. R. Civ. P.

1 20(a)(2). “A buckshot complaint that would be rejected if filed by a free person – say, a suit
2 complaining that A defrauded plaintiff, B defamed him, C punched him, D failed to pay a debt,
3 and E infringed his copyright, all in different transactions – should be rejected if filed by a
4 prisoner.” George, 507 F.3d at 607.

5 For the foregoing reasons, the complaint and proposed amended complaint are dismissed
6 with leave to amend, as indicated above, within 28 days of this order. The pleading must be
7 simple and concise and must include the caption and civil case number used in this order and the
8 words SECOND AMENDED COMPLAINT on the first page. Failure to file a proper second
9 amended complaint within the designated time will result in the dismissal of this action.

10 The clerk is instructed to terminate the motion filed as ECF item number 3.

11 **IT IS SO ORDERED.**

12 Dated: March 11, 2020



13 CHARLES R. BREYER
14 United States District Judge
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL IZELL BROWN-SEALS,

Plaintiff,

v.

K. ALLISON, et al.,

Defendants.

Case No. 3:19-cv-06149-CRB

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on March 11, 2020, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Michael Izell Brown-Seals ID: V77488
Ukiah Parole Unit
798 North State Street
Ukiah, CA 95482

Dated: March 11, 2020

Susan Y. Soong
Clerk, United States District Court

By: 
Lashanda Scott, Deputy Clerk to the
Honorable CHARLES R. BREYER

United States District Court
Northern District of California

United States District Court
Northern District of California

1 defendant, and not the result of the independent action of some third party not before the
2 Even if McNunn and/or Llopis knew that plaintiff would face a difficult second time in
3 sex offender, they are not liable for the alleged wrongdoing plaintiff encountered at the
4 prison officials and other prisoners after his re-incarceration because by merely enforcing
5 plaintiff's parole conditions neither McNunn nor Llopis "set in motion a series of acts
6 or knowingly refused to terminate a series of acts by others, which they knew or should
7 known would cause others to inflict a constitutional injury." Starr, 652 F.3d at 1207-08
8 quotations marks and citations omitted). Put simply, neither McNunn nor Llopis proximately
9 caused the injuries plaintiff allegedly sustained during his re-incarceration.²

10 For the foregoing reasons, plaintiff's TAC is DISMISSED for failure to state a claim
11 which relief may be granted. The dismissal is without leave to amend because after granting
12 plaintiff two separate opportunities to amend the court is satisfied that plaintiff can provide
13 facts in support of his claim(s) which would entitle him to relief. See Weilburg v. Sha
14 F.3d 1202, 1205 (9th Cir. 2007).

15 **IT IS SO ORDERED.**

16 Dated: November 9, 2020



17
18 CHARLES R. BREYER
United States District Judge

PACER fee: Exempt

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL IZELL BROWN-SEALS, V77488,

Plaintiff,

v.

K. ALLISON, et al.,

Defendant(s).

Case No. 19-cv-06149-CRB (PR)

**SECOND ORDER OF DISMISSAL
WITH LEAVE TO AMEND**

(ECF No. 20)

Plaintiff Michael Izzell Brown-Seals, a state prisoner now on parole in Mendocino County and a frequent litigant in both state and federal court, filed a pro se complaint in Mendocino County Superior Court against numerous state and local government officials. In plaintiff's voluminous and confusing complaint and proposed amended complaint in the superior court, he appears to claim that some defendants improperly enforced parole conditions that resulted in the revocation of his prior parole in Mendocino County and that some defendants violated his federal rights while he was incarcerated at California State Prison, Corcoran (CSP – COR) and at Centinela State Prison (CEN). Defendants removed plaintiff's action to this court pursuant to 28 U.S.C. § 1441 on the ground that this court has original jurisdiction over plaintiff's federal claims under 42 U.S.C. § 1983.

On March 11, 2020, this court screened plaintiff's complaint and proposed amended complaint pursuant to 28 U.S.C. § 1915A and dismissed them with leave to amend "to file a simple and concise second amended complaint that complies with Federal Rule of Civil Procedure 8(a)(2)'s requirement of 'a short and plain statement of the claim' and makes clear 'who is being sued, for what relief, and on what theory'" ECF No. 17 at 2 (quoting McHenry v. Renne, 84 F.3d 1172, 1177-78 (9th Cir. 1996)). The court added:

Plaintiff is reminded that claims arising from events or omissions that occurred in Mendocino County generally may be brought in this court, the Northern District of California. See 28 U.S.C. § 84(a). But claims arising from events or omissions that occurred at CSP – COR occurred in Kings County and generally should be brought in the Eastern District of California, see id. § 84(b), and claims arising from events or omissions that occurred at CEN occurred in Imperial County and generally should be brought in the Southern District of California, see id. § 84(d).

Plaintiff also is reminded that “multiple claims against a single party are fine, but Claim A against Defendant 1 should not be joined with unrelated Claim B against Defendant 2.” George v. Smith, 507 F.3d 605, 607 (7th Cir. 2007). Parties may be joined as defendants in one action only “if any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and any question of law or fact common to all defendants will arise in the action.” Fed. R. Civ. P. 20(a)(2). “A buckshot complaint that would be rejected if filed by a free person – say, a suit complaining that A defrauded plaintiff, B defamed him, C punched him, D failed to pay a debt, and E infringed his copyright, all in different transactions – should be rejected if filed by a prisoner.” George, 507 F.3d at 607.

ECF No. 17 at 2-3. Plaintiff filed a timely Second Amended Complaint (SAC).

Currently before the court is defendants’ motion that the court screen plaintiff’s SAC pursuant to 28 U.S.C. § 1915A. The motion (ECF No. 20) is GRANTED.

Plaintiff’s SAC is neither simple nor concise. But it does appear to clarify that plaintiff does not claim that some defendants improperly enforced parole conditions that resulted in the revocation of his prior parole and that other defendants violated his federal rights while he was incarcerated at different state prisons following the revocation of his prior parole. Rather, plaintiff appears to claim that defendants who improperly enforced parole conditions after he was first released on parole on November 25, 2013 are liable for: (1) their improper enforcement and resulting revocation of his parole and re-incarceration on April 6, 2014, and (2) all the wrongdoing that plaintiff encountered at the various state prisons at which he was housed following the revocation of his parole and re-incarceration on April 6, 2014.

Plaintiff previously challenged the imposition and enforcement of parole conditions requiring that he register as a sex offender and comply with residential restrictions in late 2013. But the court ultimately dismissed plaintiff’s claims for damages against the named parole agents because they were entitled to absolute immunity for the imposition of the challenged parole

1 conditions and to qualified immunity related to their enforcement of those conditions. See Brown-
 2 Seals v. Llopis, No. 13-cv-04824-PSG (PR), 2015 WL 13345330, at **2-3 (N.D. Cal. Sept. 24,
 3 2015) (order).¹ And the court dismissed plaintiff's claim for injunctive relief as moot because
 4 plaintiff was no longer on parole subject to the challenged conditions. See id. at **5-6.

5 Plaintiff's previous challenge to the imposition and enforcement of the parole conditions
 6 requiring that he register as a sex offender and comply with residential restrictions does not
 7 preclude his bringing a new claim for injunctive relief now that he again is on parole and
 8 presumably subject to the same or similar conditions. And it may not preclude a new claim for
 9 damages for the enforcement of parole conditions that may have occurred after the enforcement of
 10 parole conditions at issue in plaintiff's previous case. Plaintiff accordingly will be afforded an
 11 opportunity to amend to allege a claim for injunctive relief from his current parole conditions
 12 and/or a claim for damages for the improper enforcement of parole conditions that may have
 13 occurred after the enforcement of parole conditions at issue in plaintiff's previous case.

14 As to a possible claim for damages for the improper enforcement of parole conditions that
 15 may have occurred after the enforcement of parole conditions at issue in plaintiff's previous case,
 16 plaintiff is reminded that a person deprives another of a constitutional right within the meaning of
 17 42 U.S.C. § 1983 "if he does an affirmative act, participates in another's affirmative acts, or omits
 18 to perform an act which he is legally required to do, that causes the deprivation of which [the
 19 plaintiff complains]." Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978) (emphasis added).
 20 Liability may be imposed under § 1983 only if the defendant's actions or omissions both actually
 21 and proximately caused the deprivation of a federally protected right. See Leer v. Murphy, 844
 22 F.2d 628, 634 (9th Cir. 1988). Plaintiff therefore must set forth specific facts showing how each
 23 named defendant's enforcement of plaintiff's parole conditions actually and proximately caused
 24 the revocation of his parole and re-incarceration in violation of his federally protected rights.

25 But as a matter of law, plaintiff cannot state a claim for damages based on his theory that a
 26 defendant's enforcement of plaintiff's parole conditions caused all the wrongdoing that plaintiff

27 ¹ The court granted summary judgment as to various other named defendants because
 28 plaintiff failed to show that any of these defendants imposed or enforced the challenged parole
 conditions. See Brown-Seals v. Llopis, 2015 WL 13345330, at **6-8.

1 allegedly encountered at the various state prisons at which he was housed following the revocation
 2 of his parole and re-incarceration. The proximate cause element of causation requires that the
 3 injury at issue be “fairly traceable to the challenged action of the defendant, and not the result of
 4 the independent action of some third party not before the court.” Mendia v. Garcia, 768 F.3d
 5 1009, 1012 (9th Cir. 2014) (citation omitted). It simply cannot be said that all the wrongdoing that
 6 plaintiff allegedly encountered at the hands of prison officials and other prisoners at the various
 7 state prisons at which he was housed following the revocation of his parole and re-incarceration is
 8 fairly traceable to the enforcement of plaintiff’s parole conditions by a parole agent or other
 9 similar defendant. Cf. Starr v. Baca, 652 F.3d 1202, 1207-08 (9th Cir. 2011) (requisite causal
 10 connection can be established if defendant set in motion a series of acts by others which defendant
 11 knew or should have known would cause others to inflict constitutional injury).

12 For the foregoing reasons, the SAC is dismissed with leave to amend, as indicated above,
 13 within 28 days of this order. The pleading must be simple and concise and must include the
 14 caption and civil case number used in this order and the words THIRD AMENDED
 15 COMPLAINT on the first page. Failure to file a proper third amended complaint within the
 16 designated time will result in the dismissal of this action.²

17 The clerk is instructed to terminate the motion filed as ECF item number 20.

18 **IT IS SO ORDERED.**

19 Dated: September 30, 2020

20 
 21 CHARLES R. BREYER
 22 United States District Judge
 23
 24
 25
 26
 27

28 ² Defendants’ request that the court allow them 30 days to respond to the SAC if it survives
 the court’s screening under 28 U.S.C. §1915A is DISMISSED as moot.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL IZELL BROWN-SEALS, V77488,

Plaintiff,

v.

K. ALLISON, et al.,

Defendant(s).

Case No. 19-cv-06149-CRB (PR)

**ORDER GRANTING MOTION FOR
LEAVE TO FILE THIRD AMENDED
COMPLAINT AND DISMISSING
THIRD AMENDED COMPLAINT
WITHOUT LEAVE TO AMEND**

(ECF Nos. 22 & 23)

Plaintiff Michael Izzell Brown-Seals, a state prisoner now on parole in Mendocino County and a frequent litigant in both state and federal court, filed a pro se complaint in Mendocino County Superior Court against numerous state and local government officials. In plaintiff's voluminous and confusing complaint and proposed amended complaint in the superior court, he claimed that some defendants improperly enforced parole conditions that resulted in the revocation of his prior parole in Mendocino County and that some defendants violated his federal rights while he was incarcerated at California State Prison, Corcoran (CSP – COR) and at Centinela State Prison (CEN). Defendants removed plaintiff's action to this court pursuant to 28 U.S.C. § 1441 on the ground that this court has original jurisdiction over plaintiff's federal claims under 42 U.S.C. § 1983.

On March 11, 2020, this court screened plaintiff's complaint and proposed amended complaint pursuant to 28 U.S.C. § 1915A and dismissed them with leave to amend "to file a simple and concise second amended complaint that complies with Federal Rule of Civil Procedure 8(a)(2)'s requirement of 'a short and plain statement of the claim' and makes clear 'who is being sued, for what relief, and on what theory'" ECF No. 17 at 2 (quoting McHenry v. Renne, 84 F.3d 1172, 1177-78 (9th Cir. 1996)). The court added:

Plaintiff is reminded that claims arising from events or omissions that occurred in Mendocino County generally may be brought in this court, the Northern District of California. See 28 U.S.C. § 84(a). But claims arising from events or omissions that occurred at CSP – COR occurred in Kings County and generally should be brought in the Eastern District of California, see id. § 84(b), and claims arising from events or omissions that occurred at CEN occurred in Imperial County and generally should be brought in the Southern District of California, see id. § 84(d).

Plaintiff also is reminded that “multiple claims against a single party are fine, but Claim A against Defendant 1 should not be joined with unrelated Claim B against Defendant 2.” George v. Smith, 507 F.3d 605, 607 (7th Cir. 2007). Parties may be joined as defendants in one action only “if any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and any question of law or fact common to all defendants will arise in the action.” Fed. R. Civ. P. 20(a)(2). “A buckshot complaint that would be rejected if filed by a free person – say, a suit complaining that A defrauded plaintiff, B defamed him, C punched him, D failed to pay a debt, and E infringed his copyright, all in different transactions – should be rejected if filed by a prisoner.” George, 507 F.3d at 607.

ECF No. 17 at 2-3. Plaintiff filed a timely Second Amended Complaint (SAC).

On September 29, 2020, the court screened plaintiff’s SAC pursuant to 28 U.S.C. § 1915A and again dismissed it with leave to amend. The court explained:

Plaintiff’s SAC is neither simple nor concise. But it does appear to clarify that plaintiff does not claim that some defendants improperly enforced parole conditions that resulted in the revocation of his prior parole and that other defendants violated his federal rights while he was incarcerated at different state prisons following the revocation of his prior parole. Rather, plaintiff appears to claim that defendants who improperly enforced parole conditions after he was first released on parole on November 25, 2013 are liable for: (1) their improper enforcement and resulting revocation of his parole and re-incarceration on April 6, 2014, and (2) all the wrongdoing that plaintiff encountered at the various state prisons at which he was housed following the revocation of his parole and re-incarceration on April 6, 2014.

Plaintiff previously challenged the imposition and enforcement of parole conditions requiring that he register as a sex offender and comply with residential restrictions in late 2013. But the court ultimately dismissed plaintiff’s claims for damages against the named parole agents because they were entitled to absolute immunity for the imposition of the challenged parole conditions and to qualified immunity related to their enforcement of those conditions. See Brown-Seals v. Llopis, No. 13-cv-04824-PSG (PR), 2015 WL

13345330, at **2-3 (N.D. Cal. Sept. 24, 2015) (order).¹ And the court dismissed plaintiff's claim for injunctive relief as moot because plaintiff was no longer on parole subject to the challenged conditions. See *id.* at **5-6.

Plaintiff's previous challenge to the imposition and enforcement of the parole conditions requiring that he register as a sex offender and comply with residential restrictions does not preclude his bringing a new claim for injunctive relief now that he again is on parole and presumably subject to the same or similar conditions. And it may not preclude a new claim for damages for the enforcement of parole conditions that may have occurred after the enforcement of parole conditions at issue in plaintiff's previous case. Plaintiff accordingly will be afforded an opportunity to amend to allege a claim for injunctive relief from his current parole conditions and/or a claim for damages for the improper enforcement of parole conditions that may have occurred after the enforcement of parole conditions at issue in plaintiff's previous case.

As to a possible claim for damages for the improper enforcement of parole conditions that may have occurred after the enforcement of parole conditions at issue in plaintiff's previous case, plaintiff is reminded that a person deprives another of a constitutional right within the meaning of 42 U.S.C. § 1983 "if he does an affirmative act, participates in another's affirmative acts, or omits to perform an act which he is legally required to do, that causes the deprivation of which [the plaintiff complains]." *Johnson v. Duffy*, 588 F.2d 740, 743 (9th Cir. 1978) (emphasis added). Liability may be imposed under § 1983 only if the defendant's actions or omissions both actually and proximately caused the deprivation of a federally protected right. See *Leer v. Murphy*, 844 F.2d 628, 634 (9th Cir. 1988). Plaintiff therefore must set forth specific facts showing how each named defendant's enforcement of plaintiff's parole conditions actually and proximately caused the revocation of his parole and re-incarceration in violation of his federally protected rights.

But as a matter of law, plaintiff cannot state a claim for damages based on his theory that a defendant's enforcement of plaintiff's parole conditions caused all the wrongdoing that plaintiff allegedly encountered at the various state prisons at which he was housed following the revocation of his parole and re-incarceration. The proximate cause element of causation requires that the injury at issue be "fairly traceable to the challenged action of the defendant, and not the result of the independent action of some third party not before the court." *Mendia v. Garcia*, 768 F.3d 1009, 1012 (9th Cir. 2014) (citation omitted). It simply cannot be said that all the wrongdoing that plaintiff allegedly encountered at the hands of prison officials and other prisoners at the various state prisons at which he was housed following the revocation of his parole and re-incarceration is fairly traceable to the enforcement of plaintiff's parole conditions by a parole agent or other similar defendant. Cf. *Starr v. Baca*, 652 F.3d

¹ The court granted summary judgment as to various other named defendants because plaintiff failed to show that any of these defendants imposed or enforced the challenged parole conditions. See *Brown-Seals v. Llopis*, 2015 WL 13345330, at **6-8.

1202, 1207-08 (9th Cir. 2011) (requisite causal connection can be established if defendant set in motion a series of acts by others which defendant knew or should have known would cause others to inflict constitutional injury).

ECF No. 21 at 2-4 (footnote in original). Plaintiff filed a timely Third Amended Complaint (TAC).

Plaintiff's TAC is comprised of twelve pages. The first nine pages repeat verbatim the court's September 29, 2020 order of dismissal with leave to amend and were filed by the clerk as plaintiff's TAC. See ECF No. 22 at 1-9. The next three pages – pages ten to twelve – were filed by the clerk as "Motion for Leave to File Third Amended Complaint" because that is how plaintiff captioned page 10. See ECF No. 23 at 1-3. But pages ten to twelve are actually plaintiff's attempt to allege a claim for damages in the TAC based on his theory that the parole agents/supervisors who improperly enforced his parole conditions after he was first released on parole on November 25, 2013 are liable for the wrongdoing that he encountered at the various state prisons at which he was housed following the revocation of his parole and re-incarceration on April 6, 2014. Plaintiff's motion for leave to file a TAC (ECF No. 23) is construed as a motion to file pages ten to twelve as part of plaintiff's TAC and GRANTED. The clerk is instructed to file pages 10 to 12 (ECF No. 23 at 1-3) as part of plaintiff's TAC.


In the operative TAC, plaintiff alleges that parole agents/supervisors John McNunn and Jefferey Llopis are liable for the wrongdoing he encountered at the hands of prison officials and other prisoners after McNunn and Llopis improperly enforced his parole conditions and he was re-incarcerated because in order to become a parole agent/supervisor McNunn and Llopis had to serve as a correctional officer at a state prison and therefore knew "what the plaintiff would endure as a P.C. 290 sex offender if . . . re-incarcerated." ECF No. 23 at 1-2, 3. Plaintiff's allegations fails to state a claim for damages against McNunn or Llopis because it cannot be said that the wrongdoing that plaintiff allegedly encountered at the hands of prison officials and other prisoners following the revocation of his parole and re-incarceration is "fairly traceable" to the enforcement of plaintiff's parole conditions by McNunn or Llopis (or any other parole agent/supervisor) rather than to "the independent action[s]" of prison officials and other prisoners. Mendia, 768 F.3d at 1012 (causation requires that injury at issue be "fairly traceable to the challenged action of the

defendant, and not the result of the independent action of some third party not before the court”). Even if McNunn and/or Llopis knew that plaintiff would face a difficult second time in prison as a sex offender, they are not liable for the alleged wrongdoing plaintiff encountered at the hands of prison officials and other prisoners after his re-incarceration because by merely enforcing plaintiff’s parole conditions neither McNunn nor Llopis “set in motion a series of acts by others, or knowingly refused to terminate a series of acts by others, which they knew or should have known would cause others to inflict a constitutional injury.” Starr, 652 F.3d at 1207-08 (internal quotations marks and citations omitted). Put simply, neither McNunn nor Llopis proximately caused the injuries plaintiff allegedly sustained during his re-incarceration.²

For the foregoing reasons, plaintiff’s TAC is DISMISSED for failure to state a claim upon which relief may be granted. The dismissal is without leave to amend because after granting plaintiff two separate opportunities to amend the court is satisfied that plaintiff can prove no set of facts in support of his claim(s) which would entitle him to relief. See Weilburg v. Shapiro, 488 F.3d 1202, 1205 (9th Cir. 2007).

IT IS SO ORDERED.

Dated: November 9, 2020


 CHARLES R. BREYER
 United States District Judge

² Plaintiff of course is free to sue the prison officials who he claims caused the injuries he sustained at the various state prisons at which he was re-incarcerated (e.g., CSP – COR and CEN) by filing in the federal district court(s) in whose venue those prison officials reside.

Case 3:19-cv-06149-CRB Document 25 Filed 11/09/20 Page 1 of 1

United States District Court
Northern District of CaliforniaUNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL IZELL BROWN-SEALS, V77488,

Plaintiff,

v.

K. ALLISON, et al.,

Defendant(s).

Case No. 19-cv-06149-CRB (I**JUDGMENT**

For the reasons set forth in the accompanying order of dismissal, judgment is entered in favor of defendants and against plaintiff.

The clerk is directed to close the case and terminate all pending motions as moot.

IT IS SO ORDERED.

Dated: November 9, 2020

CHARLES R. BREYER
United States District Judge1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

PACER fee: Exempt

CLERK, U.S. COURT OF APPEALS
FOR THE NINTH CIRCUIT
P.O. BOX 193939
SAN FRANCISCO, CA 94119-3939

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE \$300

LEGAL MAIL

NEOPOST

05/10/2021

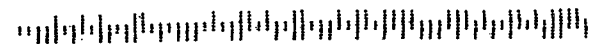
US POSTAGE \$000.51¹⁹



ZIP 94103
041M11290264

SPECIAL MAIL
OPEN ONLY IN THE PRESENCE OF THE ADDRESSEE.

9548283408 0015



Michael Izell Seals, #V77488
Ukiah Division of Adult Parole
798 North State Street
Ukiah, CA 95482

Appendix - B

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAY 10 2021

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

MICHAEL IZELL SEALS,

Plaintiff - Appellant,

v.

K. ALLISON; et al.,

Defendants - Appellees.

No. 20-17432

D.C. No. 3:19-cv-06149-CRB

U.S. District Court for Northern
California, San Francisco

MANDATE

The judgment of this Court, entered April 16, 2021, takes effect this date.

This constitutes the formal mandate of this Court issued pursuant to Rule
41(a) of the Federal Rules of Appellate Procedure.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Rhonda Roberts
Deputy Clerk
Ninth Circuit Rule 27-7

Michael Izell Seals, #V77488
Ukiah Division of Adult Parole
798 North State Street
Ukiah, CA 95482

Appendix - A

CLERK, U.S. COURT OF APPEALS
FOR THE NINTH CIRCUIT
P.O. BOX 193939
SAN FRANCISCO, CA 94119-3939

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE \$300

LEGAL MAIL

NEOPOST
04/16/2021
US POSTAGE \$000.51⁰



ZIP 94103
041M11290264

SPECIAL MAIL

OPEN ONLY IN THE PRESENCE OF THE ADDRESSEE.



9548233408 0015

