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8 UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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11 MARTIN LEE FOSTER,  
12 Plaintiff,

13 v.

14 WENDY CORELL,  
15 Defendant.  
16

No. 2:25-cv-2571 CSK P

ORDER

17 **I. INTRODUCTION**

18 Plaintiff is a former county prisoner proceeding pro se. Plaintiff seeks relief pursuant to  
19 42 U.S.C. § 1983 and requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915.  
20 This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

21 Plaintiff submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a).  
22 Accordingly, the request to proceed in forma pauperis is granted.

23 As discussed below, plaintiff's complaint is dismissed with leave to amend.

24 **II. SCREENING STANDARDS**

25 The court must dismiss a complaint or portion thereof if the prisoner raised claims that are  
26 legally "frivolous or malicious," that fail to state a claim upon which relief may be granted, or  
27 that seek monetary relief from a defendant who is immune from such relief.  
28 28 U.S.C. § 1915A(b)(1), (2).

1 A claim is legally frivolous when it lacks an arguable basis either in law or in fact.  
2 Neitzke v. Williams, 490 U.S. 319, 325 (1989); Franklin v. Murphy, 745 F.2d 1221, 1227-28 (9th  
3 Cir. 1984). The court may, therefore, dismiss a claim as frivolous when it is based on an  
4 indisputably meritless legal theory or where the factual contentions are clearly baseless. Neitzke,  
5 490 U.S. at 327. The critical inquiry is whether a constitutional claim, however inartfully  
6 pleaded, has an arguable legal and factual basis. See Jackson v. Arizona, 885 F.2d 639, 640 (9th  
7 Cir. 1989), superseded by statute as stated in Lopez v. Smith, 203 F.3d 1122, 1130-31 (9th Cir.  
8 2000) (“[A] judge may dismiss [in forma pauperis] claims which are based on indisputably  
9 meritless legal theories or whose factual contentions are clearly baseless.”); Franklin, 745 F.2d at  
10 1227.

11 Rule 8(a)(2) of the Federal Rules of Civil Procedure “requires only ‘a short and plain  
12 statement of the claim showing that the pleader is entitled to relief,’ in order to ‘give the  
13 defendant fair notice of what the . . . claim is and the grounds upon which it rests.’” Bell Atlantic  
14 Corp. v. Twombly, 550 U.S. 544, 555 (2007) (quoting Conley v. Gibson, 355 U.S. 41, 47 (1957)).  
15 In order to survive dismissal for failure to state a claim, a complaint must contain more than “a  
16 formulaic recitation of the elements of a cause of action;” it must contain factual allegations  
17 sufficient “to raise a right to relief above the speculative level.” Bell Atlantic, 550 U.S. at 555.  
18 However, “[s]pecific facts are not necessary; the statement [of facts] need only ‘give the  
19 defendant fair notice of what the . . . claim is and the grounds upon which it rests.’” Erickson v.  
20 Pardus, 551 U.S. 89, 93 (2007) (quoting Bell Atlantic, 550 U.S. at 555, citations and internal  
21 quotations marks omitted). In reviewing a complaint under this standard, the court must accept as  
22 true the allegations of the complaint in question, Erickson, 551 U.S. at 93, and construe the  
23 pleading in the light most favorable to the plaintiff. Scheuer v. Rhodes, 416 U.S. 232, 236  
24 (1974), overruled on other grounds, Davis v. Scherer, 468 U.S. 183 (1984).

### 25 **III. DISCUSSION**

26 The only named defendant is Wendy Corell, a Sacramento County Parole Officer. (ECF  
27 No. 1 at 1.) Plaintiff claims that defendant Corell improperly transferred plaintiff to another  
28 county without filing a motion with a judge, which is required before a probationer can be

1 transferred to another county or city to reside in during the parole term. (Id. at 2.) Plaintiff  
2 claims that the “transferring court” must consider certain factors when determining whether  
3 transfer is appropriate, including the permanency of the probationer’s residence, the availability  
4 of programs for the offender, restitution orders, and victim issues. (Id.) Plaintiff claims that on  
5 September 22, 2022, defendant Corell escorted plaintiff to a vehicle to transport plaintiff to  
6 Salinas, California. (Id.) Plaintiff was unprepared and traveled only with the clothes on his back  
7 and without the aid of a caregiver, which was “necessary for bone on bone of the hip joint” (Id.)  
8 Plaintiff had to survive several months in an unfamiliar city with conditions that prohibited  
9 plaintiff from returning to Sacramento, his original city. (Id.) As his legal claim, plaintiff alleges  
10 improper transfer in violation of “Section 475.” (Id. at 1.) Plaintiff seeks money damages. (Id. at  
11 4.)

12 In order to state a claim under Section 1983, a plaintiff must allege that: (1) defendant was  
13 acting under color of state law at the time the complained of act was committed; and  
14 (2) defendant’s conduct deprived plaintiff of rights, privileges or immunities secured by the  
15 Constitution or laws of the United States. 42 U.S.C. § 1983; see West v. Atkins, 487 U.S. 42, 48  
16 (1988). This Court does not know what law plaintiff refers to in his claim that defendant Corell  
17 violated “Section 475.” Accordingly, plaintiff’s complaint is dismissed because plaintiff fails to  
18 allege a violation of his rights under the Constitution or the laws of the United States. If plaintiff  
19 files an amended complaint, plaintiff shall clarify his legal claim against defendant Corell.

20 This Court observes that the complaint refers to defendant Corell as a parole officer. The  
21 complaint also refers to plaintiff as a probationer. If plaintiff files an amended complaint,  
22 plaintiff shall clarify whether plaintiff was on parole or probation at the time of the alleged  
23 deprivations. If plaintiff was on probation at the time of the alleged deprivations, plaintiff shall  
24 clarify whether defendant Corell is a probation or parole officer.

#### 25 **IV. LEAVE TO AMEND**

26 If plaintiff chooses to amend the complaint, plaintiff must demonstrate how the conditions  
27 about which he complains resulted in a deprivation of plaintiff’s constitutional rights. See e.g.,  
28 West, 487 U.S. at 48. Also, the complaint must allege in specific terms how each named

1 defendant is involved. Rizzo v. Goode, 423 U.S. 362, 371 (1976). There can be no liability  
2 under 42 U.S.C. § 1983 unless there is some affirmative link or connection between a defendant's  
3 actions and the claimed deprivation. Rizzo, 423 U.S. at 371; May v. Enomoto, 633 F.2d 164, 167  
4 (9th Cir. 1980). Furthermore, vague and conclusory allegations of official participation in civil  
5 rights violations are not sufficient. Ivey v. Bd. of Regents, 673 F.2d 266, 268 (9th Cir. 1982).

6 In addition, plaintiff is informed that the court cannot refer to a prior pleading in order to  
7 make plaintiff's amended complaint complete. Local Rule 220 requires that an amended  
8 complaint be complete in itself without reference to any prior pleading. This requirement exists  
9 because, as a general rule, an amended complaint supersedes the original complaint. See Ramirez  
10 v. Cnty. of San Bernardino, 806 F.3d 1002, 1008 (9th Cir. 2015) ("an 'amended complaint  
11 supersedes the original, the latter being treated thereafter as non-existent.'" (internal citation  
12 omitted)). Once plaintiff files an amended complaint, the original pleading no longer serves any  
13 function in the case. Therefore, in an amended complaint, as in an original complaint, each claim  
14 and the involvement of each defendant must be sufficiently alleged.

## 15 **V. CONCLUSION**

16 In accordance with the above, IT IS HEREBY ORDERED that:

- 17 1. Plaintiff's request for leave to proceed in forma pauperis (ECF No. 4) is granted.
- 18 2. Plaintiff's complaint is dismissed.
- 19 3. Within thirty days from the date of this order, plaintiff shall complete the attached

20 Notice of Amendment and submit the following documents to the court:

- 21 a. The completed Notice of Amendment; and
- 22 b. An original of the Amended Complaint.

23 Plaintiff's amended complaint shall comply with the requirements of the Civil Rights Act, the  
24 Federal Rules of Civil Procedure, and the Local Rules of Practice. The amended complaint must  
25 also bear the docket number assigned to this case and must be labeled "Amended Complaint."

26 Failure to file an amended complaint in accordance with this order may result in the dismissal of

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1 this action.

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3 Dated: November 10, 2025

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CHI SOO KIM  
UNITED STATES MAGISTRATE JUDGE

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UNITED STATES DISTRICT COURT  
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MARTIN LEE FOSTER,  
  
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WENDY CORELL,  
  
Defendant.

No. 2:25-cv-2571 CSK P  
  
NOTICE OF AMENDMENT

Plaintiff submits the following document in compliance with the court's order  
filed on \_\_\_\_\_ (date).

☐

Amended Complaint  
(Check this box if submitting an Amended Complaint)

DATED:

\_\_\_\_\_  
Plaintiff