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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

KEITH DUANE ARLINE, Jr., Plaintiff - Appellant, v. KEN CLARK; et al., Defendants - Appellees.	No. 14-15335 D.C. No. 1:11-cv-00420-LJO-SAB MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Lawrence J. O'Neill, District Judge, Presiding

Submitted November 18, 2014**

Before: LEAVY, FISHER, and N.R. SMITH, Circuit Judges.

Keith Duane Arline, Jr., a California state prisoner, appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging deprivation of outdoor exercise in violation of the Eighth Amendment. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Hamilton v. Brown*, 630

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

F.3d 889, 892 (9th Cir. 2011) (dismissal under 28 U.S.C. § 1915A); *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998) (order) (dismissal under 28 U.S.C. § 1915(e)(2)(B)(ii)). We affirm in part, reverse in part, and remand.

The district court properly dismissed Arline's action against defendants Vasquez, Clark, and Sherman because Arline failed to allege facts sufficient to link these defendants to any constitutional violation. *See Arnold v. Int'l Bus. Machs. Corp.*, 637 F.2d 1350, 1355 (9th Cir. 1981) (to bring a 42 U.S.C. § 1983 claim, plaintiff must link each named defendant with some affirmative act or omission that demonstrates a violation of plaintiff's constitutional rights); *see also Hebbe v. Pliler*, 627 F.3d 338, 341-42 (9th Cir. 2010) (although pro se pleadings are liberally construed, plaintiff must allege sufficient facts to state a plausible claim).

However, the district court prematurely dismissed Arline's action against defendants Goss, Wan, and Allison because Arline's allegations as to these defendants, liberally construed, were "sufficient to warrant ordering [defendants] to file an answer." *Wilhelm v. Rotman*, 680 F.3d 1113, 1116 (9th Cir. 2012); *see also Thomas v. Ponder*, 611 F.3d 1144, 1150-52 (9th Cir. 2010) (setting forth elements of an Eighth Amendment claim based on deprivation of outdoor exercise).

Accordingly, we reverse in part and remand with instructions for the district

court to order the United States Marshal to serve the second amended complaint on defendants Goss, Wan, and Allison.

AFFIRMED in part, REVERSED in part, and REMANDED.