

1 MEMORANDUM IN SUPPORT OF MOTION TO  
2 DISMISS PURSUANT TO RULE 12(b)

3 ARGUMENT

4 I

5 THE COMPLAINT FAILS TO STATE CLAIM  
6 AGAINST THE STATE OF CALIFORNIA AND  
7 THE CORRECTIONAL TRAINING FACILITY  
8 AT SOLEDAD

9 Plaintiff, in his complaint under the Civil Rights  
10 Act, has joined as defendant the State of California and  
11 Correctional Training Facility at Soledad, a penal institution  
12 operated by the Executive Branch of the state. However, the  
13 state as such and any department of its government are not "persons"  
14 within the meaning of the Civil Rights Act. Williford v. People  
15 of California, 352 F.2d 474, 476 (1965); see also Monroe v.  
16 Pape, 365 U.S. 167, 187-192 (1961). Accordingly, the complaint  
17 not only should but must be dismissed as to defendants State  
18 of California and the Correctional Training Facility at Soledad.

19 II.

20 THE COMPLAINT FAILS TO STATE A CLAIM  
21 AGAINST THE DEFENDANTS FOR DENIAL OF  
22 ADEQUATE MEDICAL TREATMENT

23 In Paragraph 22 of his amended complaint, plaintiff  
24 alleges that he "has been denied adequate medical care prior  
25 to, during, and subsequent to said confinement in said strip cell,  
26 despite repeated oral and written requests for same made in  
27 good faith by or on behalf of plaintiff".

28 These general allegations are insufficient to state a  
29 claim for relief under the Civil Rights Act. Prison admin-  
30 istrators have wide discretion as to the medical treatment to be  
31 afforded inmates and general allegations respecting the insuf-  
ficiency of such treatment will not state a claim for relief  
under the Civil Rights Act. Snow v. Gladden, 338 F.2d 999, 1000-  
1001 (9th Cir. 1964); United States v. Ragen, 337 F.2d 425, 426

1 (7th Cir. 1964); United States v. Ragen, 323 F.2d 410, 412 (7th  
2 Cir. 1963). This rule accords with the general principle that  
3 highly specific pleading of fact showing a violation of federally  
4 protected rights is required by a prisoner seeking to bring  
5 a suit under the Civil Rights Act. See Pugliano v. Staziak,  
6 231 F.Supp. 347, (W.D. Pa. 1964); Hoge v. Bolsinger, 211 F.Supp.  
7 199 (W.D. Pa. 1962). On the authority of the above cited cases  
8 therefore, plaintiff's second theory, i.e., that he was denied  
9 adequate medical treatment, is insufficient to support his claim  
10 damages against the defendants.

11 III

12 PLAINTIFF'S CLAIM THAT HE IS SUBJECTED  
13 TO CONFINEMENT IN ISOLATION IS INSUFFICIENT  
14 TO STATE A CLAIM AGAINST THE DEFENDANTS

14 Plaintiff's third theory, as stated in Paragraph 20  
15 of his complaint, is that administrative personnel and correc-  
16 tional personnel of the defendant institution intend to exercise  
17 a broad discretion in placing plaintiff in a punishment cell,  
18 and that there are no standards for the proper exercise of such  
19 discretion. Reduced to its essentials, these allegations mere-  
20 ly mean that plaintiff does not agree with the defendant as  
21 to the degree of custody required to maintain proper control  
22 and discipline over him. These allegations likewise do not  
23 state grounds for relief in a federal forum. Kostal v. Tinsley  
24 337 F.2d 845, 846 (10th Cir. 1964); United States v. Ragen,  
25 supra, 337 F.2d 425, 426 (7th Cir. 1964); Stiltner v. Rhay, 322  
26 F.2d 314 (9th Cir. 1963); Roberts v. Barbosa, 227 F.Supp. 20,  
27 23 (S.D. Cal. C.D. 1964); Nichols v. McGee, 169 F.Supp. 721,  
28 724 (N.D. Cal. N.D. 1959). In this connection, we might note  
29 that the practice of placing unruly or dangerous prisoners,  
30 such as plaintiff (in this connection, see plaintiff's discipli-  
31 nary record, attached to defendants' answers to interrogatories),

1 is accepted penological practice in the prison systems of both  
2 the federal government and the state's. See American Correctional  
3 Association, Manual of Correctional Standards, pp. 247-248 (1956).

4 CONCLUSION

5 We respectfully submit that plaintiff's complaint,  
6 insofar as it seeks any relief from defendants State of California  
7 and the Correctional Training Facility at Soledad, should be  
8 dismissed in its entirety. We also respectfully submit that  
9 insofar as the complaint seeks relief against the personal defen-  
10 dants for denying adequate medical care, and for placing plain-  
11 tiff in isolation, it should likewise be dismissed.

12 DATED: May 23, 1966

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