

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

Martinez v. Napa State Hospital

Martinez · No. 23-cv-04247-SI · Decided February 26, 2025

OPINION

Martinez v. Napa State Hospital

PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 MARCELLA ELIZABETH MARTINEZ, Case No. 23-cv-04247-SI 8 Plaintiff,

ORDER RE: MOTION TO DISMISS

9 v. Re: Dkt. No. 47 10 NAPA STATE HOSPITAL, et al., 11 Defendants. 12 13 The Department
of State Hospitals¹ filed a motion to dismiss plaintiff’s claims against it on 14 the basis of
statutory immunity and the failure to state a valid claim. For the reasons stated below, 15 the
Court GRANTS the motion. All claims against the Department of State Hospitals—and Napa 16
State Hospital, as the same entity—are DISMISSED. The unchallenged claims against the 17
individual defendants will proceed. 18

19 BACKGROUND

20 I. Factual Background 21 The background facts are recited more fully in the Court’s prior order
granting in part and 22 denying in part defendants’ motion for judgment on the pleadings. See
Dkt. No. 32 (“Prior Order”). 23 Here, as in the Prior Order, the Court assumes that the allegations
of the complaint are true for 24 purposes of deciding the motion to dismiss. 25 26 1 In a similar
case brought against Napa State Hospital and the California Department of State Hospitals, Judge
Alsup of this district observed: “DSH and NSH are the same entity. Although 27 the hospital
where plaintiff is an inpatient is colloquially referred to as ‘Napa State Hospital,’ it is 1 To briefly
summarize, plaintiff Marcella Elizabeth Martinez was an involuntarily committed 2 patient at
Napa State Hospital beginning on February 24, 2020. Dkt. No. 46 (“SAC”) ¶¶ 2, 22. 3 Upon
plaintiff’s arrival, she was assigned to Unit T-11, which “consists of a series of dormitory- 4 style
rooms connected by a hallway with a single bathroom and shower facilities for all patients 5
housed in the unit.” Id. ¶ 17. Each room contains four beds and plaintiff was assigned to a
bedroom 6 that was also occupied by Lynnsey Eva Karla Braun. Id. ¶¶ 18, 23. According to the
complaint, 7 “Braun has male genitalia, and Braun’s original birth certificate identified Braun’s
gender as male. 8 However, Braun self-identifies as female.” Id. ¶ 24. Braun had been admitted to
Napa State 9 Hospital after being charged with second degree murder and adjudicated not guilty

by reason of 10 insanity. Id. ¶ 25. 11 Shortly after plaintiff’s arrival in the unit, Braun made “sexual and romantic advances” 12 toward her, then began harassing her when she denied these advances. Id. ¶¶ 36, 41-42. Braun 13 asked plaintiff for sex in the shared bathroom facilities. Id. ¶¶ 52-53. Braun then asked plaintiff if 14 she wanted to see Braun’s penis while plaintiff was dressing after a shower. Id. ¶ 54. Plaintiff 15 complained to her treatment team about Braun’s behavior three times. Id. ¶¶ 37, 43, 46, 56. The 16 unit supervisors responded by moving plaintiff to an adjacent bedroom. Id. ¶ 49. Subsequently, on 17 or about April 4, 2020, Braun encountered plaintiff in the hallway, directed plaintiff into a bedroom, 18 then attacked plaintiff with a deadly weapon, inflicting “extensive lacerations [to] her head.” Id. 19 ¶¶ 59-71. Braun was charged with attempted murder and assault with a deadly weapon. Id. ¶ 74. 20 21 II. Procedural Background 22 On November 6, 2020, Martinez (represented by counsel) filed suit in Napa County Superior 23 Court against defendants Napa State Hospital, the California Department of State Hospitals 24 (“DSH”), Cindy Black, and Does 1-50. Martinez v. Napa State Hosp., Case No. 20-cv-08631, Dkt. 25 No. 1 at 8. Defendants removed the action to federal court on December 7, 2020. See generally id.,

26 Dkt. No. 1. The case was assigned to the undersigned Judge. Id., Dkt. No. 6. The parties stipulated 27 to a stay while plaintiff sought her release from DSH. On December 5, 2022, plaintiff—through her 1 statute.” Id., Dkt. No. 33. 2 On August 21, 2023, plaintiff (representing herself) filed the current suit against the same 3 defendants. Dkt. No. 1. Defendants answered the complaint on November 21, 2023. Dkt. No. 9. 4 Defendants then filed a motion for judgment on the pleadings, which the Court granted in part and 5 denied in part on June 20, 2024. Dkt. No. 32. The Court gave plaintiff the opportunity to amend 6 the complaint and stayed the proceedings for plaintiff to be appointed pro bono counsel. Dkt. Nos. 7 33-34. After plaintiff’s new counsel was appointed by the Court, plaintiff filed a First Amended 8 Complaint (“FAC”). Dkt. Nos. 35-36. The FAC asserted ten claims for relief against the same 9 collection of defendants. Dkt. No. 36. Defendant Cindy Black answered the FAC, but defendant 10 DSH moved to dismiss the claims against it from the FAC, citing Federal Rule of Civil Procedure 11 12(b)(6). Dkt. Nos. 41-42. After an initial round of written briefing on the motion to dismiss, the 12 parties stipulated to the filing of a Second Amended Complaint (“SAC”). Dkt. Nos. 44-45. Plaintiff 13 filed the SAC on November 26, 2024 and defendant DSH has again moved to dismiss under Rule 14 12(b)(6).2 Dkt. No. 47. The SAC contains eight claims, but only the three claims asserted against 15 DSH are at issue here: Negligence (Claim 5), Vicarious Liability (Claim 7), and Premises Liability 16 (Claim 8). 17

18 LEGAL STANDARD

19 Under Federal Rule of Civil Procedure 12(b)(6), a district court must dismiss a complaint if 20 it fails to state a claim upon which relief can be granted. To survive a Rule 12(b)(6) motion to 21 dismiss, the plaintiff must allege “enough facts to state a claim to relief that is plausible on its face.” 22 Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007). This “facial plausibility” standard

requires 23 the plaintiff to allege facts that add up to “more than a sheer possibility that a defendant has acted 24 unlawfully.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). While courts do not require “heightened 25 fact pleading of specifics,” a plaintiff must allege facts sufficient to “raise a right to relief above the 26 27 2 Defendant Black has not filed a responsive pleading to the SAC, but since the SAC asserts 1 speculative level.” *Twombly*, 550 U.S. at 555, 570. 2 In deciding whether the plaintiff has stated a claim upon which relief can be granted, the 3 court must assume that the plaintiff’s allegations are true and must draw all reasonable inferences 4 in the plaintiff’s favor. *Usher v. City of Los Angeles*, 828 F.2d 556, 561 (9th Cir. 1987). However, 5 the court is not required to accept as true “allegations that are merely conclusory, unwarranted 6 deductions of fact, or unreasonable inferences.” *In re Gilead Sciences Sec. Litig.*, 536 F.3d 1049, 7 1055 (9th Cir. 2008) (citation and internal quotation marks omitted). 8

9 DISCUSSION

10 DSH argues that each of the three claims asserted against it fail both because of statutory 11 immunity and because plaintiff has failed to state a valid claim. Dkt. No. 47 (“Mot.”). 12 13 I. Immunity from State Law Claims 14 Under California law, unless certain exceptions apply, “a public entity is not liable for: (1) 15 An injury proximately caused by a patient of a mental institution. (2) An injury to an inpatient of a 16 mental institution.” Cal. Gov’t Code § 854.8(a). Section 854.8, however, is subject to the exception 17 stated in Government Code section 855. Id. Section 855 states, in relevant part: 18 A public entity that operates or maintains any medical facility that is subject to regulation by the State Department of Health Services, 19 Social Services, Developmental Services, or Mental Health is liable for injury proximately caused by the failure of the public entity to 20 provide adequate or sufficient equipment, personnel or facilities required by any statute or any regulation of the State Department of 21 Health Services, Social Services, Developmental Services, or Mental Health prescribing minimum standards for equipment, personnel or 22 facilities, unless the public entity establishes that it exercised reasonable diligence to comply with the applicable statute or 23 regulation. Cal. Gov’t Code § 855(a). The California Court of Appeal has explained that “Government Code 24 section 855 was intended to impose liability only when the statute or regulation sets forth a specific 25 standard that gives the public medical facility clear notice as to the minimum requirements with 26 which it must comply.” *Lockhart v. Cnty. of Los Angeles*, 66 Cal. Rptr. 3d 62, 76-77, (Cal. Ct. App. 27 1 policy goal is insufficient if it ‘does not specifically direct the manner in which that goal is to be 2 attained.’” *Brackin*, 2016 WL 3185021, at *7 (N.D. Cal. June 8, 2016) (quoting *Lockhart*, 66 Cal. 3 Rptr. 3d at 77).

4 In its prior order, the Court found DSH immune under section 854.8 because the complaint 5 [did] not identify any statute or regulation “prescribing minimum standards for equipment, personnel or facilities,” such that DSH could 6 be liable for an inpatient attack on another patient under Government Code section 855. See *Brackin*, 2016 WL 3185021, at *7-8 (granting 7 motion for judgment on the pleadings regarding state law claims against DSH, where the regulations

identified in the complaint used language that was “too broad to fit within the narrow exception of Section 855”). Prior Order at 7-8. The Court granted plaintiff leave to amend “to allege an exception under California Government Code section 855.” Id. at 8. Plaintiff attempts in her SAC to remedy this deficiency, arguing DSH failed to meet several statutory or regulatory requirements. Specifically, plaintiff contends DSH violated California Penal Code section 4002 and sections 71115 and 71619 of title 22 of the California Code of Regulations.³ The Court considers each provision in turn.

A. Penal Code Section 4002

California Penal Code section 4002 states, in relevant part: Persons committed on criminal process and detained for trial, persons convicted and under sentence, and persons committed upon civil process, shall not be kept or put in the same room, nor shall male and female prisoners, except spouses, sleep, dress or undress, bathe, or perform eliminatory functions in the same room. Cal. Pen. Code § 4002(a) (emphasis added). Plaintiff argues this section applies to patients in California state mental hospitals, that DSH violated this statute by placing Braun with women patients, and that this violation excepts DSH from immunity pursuant to Government Code section 855. SAC ¶¶ 78-83; Opp’n at 7-9.

DSH argues that Penal Code section 4002, located within a chapter of the Penal Code that details requirements for the administration of county jails, does not apply to state mental hospitals that house patients, not prisoners. Mot. at 8. Plaintiff insists in opposition that the term “prisoner” must be construed broadly to include individuals civilly committed to state hospitals. Opp’n at 8.

In support, plaintiff relies on two older cases. First, in *People v. White*, 202, 203 (Cal. Ct. App. 1960), the court considered a person adjudicated as a “psychopathic delinquent,” committed to a state hospital, then transferred to San Quentin Prison could be considered a “prisoner” for the purpose of a criminal statute prohibiting a “prisoner” from carrying a weapon. Second, in *Jiminez v. County of Santa Cruz*, 116 Cal. Rptr. 878, 879 (Cal. Ct. App. 1974), the court determined a ward of the juvenile court placed in a foster care facility was a “prisoner” for purposes of a statute providing public entities immunity for injuries to prisoners. DSH replies to plaintiff’s contention by noting how more recent statutory language clarifies that the Legislature considers persons in state mental hospitals as “patients to be provided care and treatment and not as inmates of institutions for the purposes of secluding them from the rest of the public.” Dkt. No. 51 (“Reply”) 14 (quoting Cal. Welf. & Inst. Code § 4132).

The Court is not persuaded that Penal Code section 4002 applies to the placement and housing of patients in state mental hospitals. “It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme.” *Davis v. Michigan Dep’t of Treasury*, 489 U.S. 803, 809 (1989); see also *Poole v. Orange Cnty. Fire Auth.*, 354 P.3d 346, 350 (Cal. 2015) [noting that statutes are not read in isolation]. Section 4002 falls within a chapter and title of the Penal Code dedicated to the administration of county jails, alongside titles that regulate imprisonment in state prisons. Sections 4000 and 4001, also concerning the different categories of detained

persons, explicitly reference 23 county jails. Section 4002(c) refers to requirements placed on a county, not a state facility. 24 The Court is not aware of any case law that applies the requirements of Section 4002 to 25 confinement in a state mental hospital. The Legislature has chosen to regulate the administration of 26 state mental hospitals in an entirely different code—the Welfare & Institutions Code, via section 27 4100 et seq. and section 7200 et seq. Within that code, the Legislature emphasized the persons 1 the code specifies that “the uniform rules and regulations of the State Department of State Hospitals” 2 governs the administration of these facilities. Id., § 7201. And while these code chapters 3 occasionally reference patients who have been placed in state hospitals due to provisions of the 4 Penal Code, see, e.g., §§ 7200.03, 7228, 7350, nowhere has the Legislature explicitly applied the 5 institutional management guidelines within the Penal Code to state hospitals. 6 In short, plaintiff cannot use Penal Code 4002 to defeat DSH’s statutory immunity. 7 8 B. Code of Regulations, Title 22, Section 71115 9 Plaintiff next contends that DSH violated standards set by section 71115 of title 22 of the 10 California Code of Regulations. SAC ¶¶ 84-88. That section states in relevant part, 11 (a) Architectural plans shall not be approved and a license shall not be originally issued to any hospital which does not conform to: the 12 regulations in this chapter; state requirements on seismic safety, fire and life safety and environmental impact and local fire safety, zoning 13 and building ordinances. Evidence of such compliance shall be presented in writing to the Department. 14 (b) It shall be the responsibility of the licensee to maintain the hospital 15 in a safe structural condition. . . . Cal. Code Regs. tit. 22, § 71115. Plaintiff maintains that DSH has violated this regulation because 16 its bathroom facilities do not meet the criteria for unisex bathrooms in the California Building Code. 17 SAC ¶¶ 84-87; Opp’n at 9. Since DSH allowed Braun to use the women’s bathroom, plaintiff argues 18 the bathroom was effectively a unisex facility. Id. DSH responds that this regulation relates to the 19 granting of the original license and does not present an ongoing duty to conform to regulations, and 20 further that “zoning and building ordinances” refers to local laws, not the state building code. Reply 21 at 4-5. 22 The Court agrees with DSH that this regulation does not help plaintiff evade defendant’s 23 statutory immunity, but need not dive into the distinctions between local building ordinances and 24 the state building code. The only ongoing responsibility placed on operating hospitals by this 25 regulation is to remain in a “safe structural condition.” Cal. Code Regs. tit. 22, § 71115(b). The 26 structural condition of the hospital did not proximately cause plaintiff’s injury and is not at issue in 27 1 2 C. Code of Regulations, Title 22, Section 71619 3 Lastly, plaintiff relies on section 71619 of the same regulatory title, which provides: “A 4 method of assuring privacy for each patient shall be maintained in patient rooms and in tub, shower 5 and toilet rooms.” Cal. Code Regs. tit. 22, § 71619. DSH argues that this regulation does not 6 prescribe any “minimum standards” so the exemption of Government Code 855 cannot attach. Mot. 7 at 9-10. DSH is correct. 8 In Lockhart, the court held that a regulation that required “sufficient nursing staff . . . to meet 9 the needs of patients” was a “general goal,” not a “specific minimum standard.” 66 Cal. Rptr. 3d at 10 77. As such, it was “not the type of regulation

‘prescribing minimum standards for equipment, 11 personnel or facilities,’ the breach of which can give rise to liability under Government Code section 12 855.” Id. Similarly, in Brackin, the same regulation about staffing and a separate regulation 13 establishing that patients have the right “to be free from mental and physical abuse” did not 14 “specifically direct the manner in which the broad goals they set out are to be attained” and thus did 15 not overcome the statutory immunity in Government Code section 854.8(a). 2016 WL 3185021, at 16 *7; see also Spath v. Cnty. of Santa Clara, No. 22-CV-07599-JSC, 2023 WL 4411961, at *6 (N.D. 17 Cal. July 7, 2023) [holding that statutes that require an assessment of mentally ill patients and give 18 them the right to treatment services and prompt care are too general to establish liability under 19 Government Code section 855]. 20 The regulation at issue here, which requires “[a] method of assuring privacy,” likewise does 21 not create a specific minimum standard by which state hospitals could be held accountable. It 22 provides a broad goal, not specific direction. See Brackin, No. C 15-03351 WHA, 2016 WL 23 3185021, at *7. Accordingly, this regulation cannot be applied to defeat DSH’s immunity. 24 25 D. Conclusion 26 In conclusion, DSH retains statutory immunity under Government Code section 854.8 since 27 plaintiff has failed to plausibly allege, as required by section 855, that her injury was “proximately 1 facilities required by any statute or any regulation . . . prescribing minimum standards for equipment, 2 personnel or facilities.” Cal. Gov’t Code § 855. 3 Since DSH retains statutory immunity, the Court need not consider whether plaintiff has 4 otherwise stated a valid claim. 5 6 II. Doe Defendants 7 The SAC brings causes of action against a number of Doe defendants. Although the use of 8 “Doe” to identify a defendant is not favored in the Ninth Circuit, see Gillespie v. Civiletti, 629 F.2d 9 637, 642 (9th Cir. 1980); Wiltsie v. Cal. Dep’t of Corrections, 406 F.2d 515, 518 (9th Cir. 1968), 10 situations may arise where the identity of alleged defendants cannot be known prior to the filing of 11 a complaint. In such circumstances, the plaintiff should be given an opportunity through discovery 12 to identify the unknown defendants, unless it is clear that discovery would not uncover their 13 identities or that the complaint should be dismissed on other grounds. See Gillespie, 629 F.2d at 14 642; Velasquez v. Senko, 643 F. Supp. 1172, 1180 (N.D. Cal. 1986). 15 An important next step in this case will be for plaintiff to identify the Doe defendants. 16

17 CONCLUSION

18 For the foregoing reasons, the Court GRANTS DSH’s motion to dismiss with prejudice
19 Claims 5, 7, and 8 against DSH. As Claims 7 and 8 were asserted only against DSH, those
claims
20 are dismissed with prejudice in their entirety. Claims 1 through 6 will proceed against the
individual 21 defendants only. The Court does not grant further leave to amend and DSH is
dismissed as a 22 defendant in this case. 23 /// 24 /// 25 /// 26 /// 27 /// 1 The Court sets a
case management conference for Friday, April 4, 2025, at 2:30 p.m., to be 2 || conducted over
Zoom videoconference. A joint case management statement is due no later than 3 Friday, March
28, 2025. The parties shall come to the case management conference prepared to 4 || discuss a

schedule for the balance of the case. 5 6 IT IS SO ORDERED. 7 || Dated: February 26, 2025 Site
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SUSAN ILLSTON
9 United States District Judge 10 11 12 41 © 15 16 = 17 Z 18 19 20 21 22 23 24 25 26 27 28

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