

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Blue Fire Cloud Abreu v. The Great State of California

Abreu · No. 2:24-cv-03358 SCR P · Decided July 3, 2025

SUMMARY

A United States magistrate judge recommends dismissal of a pro se prisoner’s 42 U.S.C. § 1983 complaint against the State of California. The document concludes that the complaint fails to comply with Federal Rule of Civil Procedure 8, the State is immune from suit under § 1983 and the Eleventh Amendment, and the court lacks authority to grant a pardon. It recommends denying in forma pauperis status, dismissing the complaint without leave to amend, and denying the plaintiff’s other motions.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Sean C. Riordan, United States Magistrate Judge
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	July 3, 2025
DOCKET	2:24-cv-03358 SCR P
DISPOSITION	other
PROCEDURAL POSTURE	Screening of a pro se state-prisoner civil-rights complaint under 28 U.S.C. § 1915A, together with consideration of an in forma pauperis application, a pardon request, and a motion to consolidate cases.
STANDARD OF REVIEW	Under 28 U.S.C. § 1915A, the court must dismiss a prisoner complaint that is frivolous, malicious, fails to state a claim, or seeks monetary relief from an immune defendant. In evaluating failure to state a claim, the court accepts factual allegations as true and construes the complaint liberally, but conclusory allegations and formulaic recitations of elements are insufficient.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Blue Fire Cloud Abreu v. The Great State of California

TOPICS

- prisoners rights
- section 1983
- motions to dismiss
- eleventh amendment immunity
- civil procedure

PRACTICE AREAS

civil rights

prisoner litigation

federal civil procedure

constitutional immunity

QUESTIONS PRESENTED

1. Whether the complaint stated a cognizable claim for relief under 42 U.S.C. § 1983.
2. Whether the complaint complied with Federal Rule of Civil Procedure 8(a)(2).
3. Whether the State of California is a suable person under § 1983 and is immune from suit under the Eleventh Amendment.
4. Whether the court had authority to grant plaintiff's request for a full pardon.
5. Whether the defects in the complaint could be cured by amendment.

HOLDINGS

1. The complaint failed to state a cognizable claim because it did not identify any specific cause of action or the constitutional or federal statutory rights allegedly violated, leaving the court unable to determine what claims plaintiff intended to assert.
2. The State of California is not a person subject to suit under § 1983 and is entitled to Eleventh Amendment immunity from plaintiff's claims for relief.
3. The court lacked authority to grant plaintiff's request for a full pardon because pardon and clemency proceedings are executive-branch functions.
4. Dismissal without leave to amend was appropriate because the State of California's immunity from suit could not be cured by amendment.

KEY QUOTATIONS

"A district court may deny leave to proceed in forma pauperis at the outset if it appears from the face of the proposed complaint that the action is frivolous or without merit." (at 1)

"Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements do not suffice." (at 2)

"A district court should not dismiss a pro se complaint without leave to amend unless it is absolutely clear that the deficiencies of the complaint could not be cured by amendment." (at 4)

FACTUAL BACKGROUND

Plaintiff, a state prisoner, alleged that as a child he was sent to Mulhouse Boys Ranch in Nevada City, California, where he was subjected to grooming, abuse, and exploitation connected to a trafficking and pimping operation. He alleged that he was later returned to juvenile hall and confined at a state hospital in an effort to conceal what happened. The complaint sought relief against the State of California under § 1983, including a full pardon, a public apology, and \$100 million in damages, but did not identify a specific cause of action or constitutional or federal statutory right allegedly violated.

PROCEDURAL HISTORY

Plaintiff filed a complaint under 42 U.S.C. § 1983 against the State of California and moved to proceed in forma pauperis. The magistrate judge screened the complaint, concluded that it failed to state a cognizable claim and sought relief from an immune defendant, and issued an order and findings and recommendations recommending dismissal without leave to amend. The magistrate judge also recommended denial of the in forma pauperis application, the pardon request, and the motion to consolidate; the recommendations were to be submitted to a district judge under 28 U.S.C. § 636(b)(1).

DISPOSITION

other

CASES CITED

- *Tripati v. First National Bank & Trust*, 821 F.2d 1368, 1370 (9th Cir. 1987)
- *Neitzke v. Williams*, 490 U.S. 319, 325, 327 (1989)
- *Jackson v. Arizona*, 885 F.2d 639, 640 (9th Cir. 1989)
- *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-557, 570 (2007)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)
- *Erickson v. Pardus*, 551 U.S. 89, 93-94 (2007)
- *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974)
- *Cornel v. Hawaii*, 37 F.4th 527, 531 (9th Cir. 2022)
- *Krainski v. Nevada ex rel. Board of Regents of the Nevada System of Higher Education*, 616 F.3d 963, 967 (9th Cir. 2010)
- *Iseli v. CA*, No. 2:22-cv-2173 DJC AC P, 2025 WL 1557303, at *1 (E.D. Cal. June 2, 2025)
- *Ohio Adult Parole Authority v. Woodard*, 523 U.S. 272, 284 (1998)
- *Akhtar v. Mesa*, 698 F.3d 1202, 1212 (9th Cir. 2012)
- *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 BLUE FIRE CLOUD ABREU, No. 2:24-cv-03358 SCR P 12 Plaintiff, 13 v.
ORDER AND FINDINGS & RECOMMENDATIONS 14 THE GREAT STATE OF
CALIFORNIA, 15 Defendant. 16 17 Plaintiff is a state prisoner proceeding pro se with a civil
rights action under 42 U.S.C. § 18 1983.

Before the undersigned is plaintiff's complaint for screening (ECF No. 1), motion to 19 proceed in
forma pauperis (ECF No. 2), request for full pardon (ECF No. 6), and motion to 20 consolidate
cases (ECF No. 11.) For the reasons set forth below, the undersigned finds plaintiff's 21 complaint

fails to state a claim upon which relief can be granted and recommends it be dismissed 22 without leave to amend.

Because the complaint fails to state a claim, the court will exercise its 23 discretion to deny plaintiff's application to proceed in forma pauperis. See *Tripati v. First Nat. Bank & Tr.*, 821 F.2d 1368, 1370 (9th Cir. 1987) ("A district court may deny leave to proceed in 25 forma pauperis at the outset if it appears from the face of the proposed complaint that the action is 26 frivolous or without merit.") Plaintiff's remaining motions should be denied.

27 **STATUTORY SCREENING** 28 1 The court is required to screen complaints brought by prisoners seeking relief against "a 3 governmental entity or officer or employee of a governmental entity." 28 U.S.C. § 1915A(a).

In 4 performing this screening function, the court must dismiss any claim that "(1) is frivolous, 5 malicious, or fails to state a claim upon which relief may be granted; or (2) seeks monetary relief 6 from a defendant who is immune from such relief." *Id.* § 1915A(b). A claim is legally frivolous 7 when it lacks an arguable basis either in law or in fact. *Neitzke v. Williams*, 490 U.S. 319, 325 8 (1989).

The court may dismiss a claim as frivolous if it is based on an indisputably meritless 9 legal theory or factual contentions that are baseless. *Neitzke*, 490 U.S. at 327. The critical 10 inquiry is whether a constitutional claim, however inartfully pleaded, has an arguable legal and 11 factual basis. See *Jackson v. Arizona*, 885 F.2d 639, 640 (9th Cir. 1989).

12 In order to avoid dismissal for failure to state a claim a complaint must contain more than 13 "naked assertions," "labels and conclusions" or "a formulaic recitation of the elements of a cause 14 of action." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-557 (2007).

In other words, 15 "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory 16 statements do not suffice." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A claim upon which the 17 court can grant relief has facial plausibility. *Twombly*, 550 U.S. at 570. "A claim has facial 18 plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable 19 inference that the defendant is liable for the misconduct alleged." *Iqbal*, 556 U.S. at 678.

When 20 considering whether a complaint states a claim, the court must accept the allegations as true, 21 *Erickson v. Pardus*, 551 U.S. 89, 93-94 (2007), and construe the complaint in the light most 22 favorable to the plaintiff, *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974). 23 **FACTUAL ALLEGATIONS OF THE COMPLAINT** 24 Plaintiff's complaint seeks relief against the State of California under § 1983 for alleged 25 wrongs against himself and other child victims.

(ECF No. 1.) Plaintiff alleges human and sex trafficking by a lawyer who sent children to group homes, foster homes, boys ranches, and other facilities to receive physical, emotional, mental, and sexual abuse and neglect. (Id. 2-3.) Plaintiff was sent to Mulhouse Boys Ranch in Nevada City by attorney Robert Wayne Wiley in 1998. 1 There, he alleges he was groomed as a child bodyguard enforcer for a pimping and pandering ring 2 so pedophiles known as financiers could come on BBQ Bash Day and molest young boys.

(Id. at 3 3.) When plaintiff stood up, he was sent back to juvenile hall and Metro State Hospital of 4 Norwalk, California, for four years to cover up what really happened. (Id.) When plaintiff was 5 released, he was unable to take care of himself. His whole life has been ruined. (Id.) 6 Plaintiff does not identify any specific cause of action or legal theory, but requests a full 7 pardon, a public apology, and \$100 million dollars.

(Id.) 8 DISCUSSION 9 I. Failure to State a Claim 10 For the reasons set forth below, the undersigned finds that plaintiff's complaint fails to 11 state any cognizable claims for relief. 12 First, plaintiff's complaint does not comply with Rule 8 of the Federal Rules of Civil 13 Procedure. Rule 8(a)(2) "requires only 'a short and plain statement of the claim showing that the 14 pleader is entitled to relief,' in order to 'give the defendant fair notice of what the claim is and the 15 grounds upon which it rests.'" *Twombly*, 550 U.S. at 555 (citation omitted).

Plaintiff's 16 complaint, while titled "Complaint By A Prisoner Under the Civil Rights Act, 42 U.S.C. § 1983," 17 ECF No. 1 at 1, does not list any causes of action or identify which constitutional or federal 18 statutory rights defendant State of California allegedly violated. Even under a liberal construction 19 of the complaint, the undersigned is left to guess which claims plaintiff intended to allege.

20 Second, the State of California is not a "person" for purposes of § 1983 and is therefore 21 entitled to absolute immunity from suit under the Eleventh Amendment. *Cornel v. Hawaii*, 37 22 F.4th 527, 531 (9th Cir. 2022); see also *Krainski v. Nev. Ex rel. Bd. of Regents of Nev. Sys. Of* 23 *Higher Educ.*, 616 F.3d 963, 967 (9th Cir. 2010) (the Eleventh Amendment bars suits against the 24 State for all types of relief).

A plaintiff may bring an action under 42 U.S.C. § 1983 to redress 25 violations of "rights, privileges, or immunities secured by the Constitution and [federal] laws" by 26 a person or entity, including a municipality, acting under the color of state law. 42 U.S.C. § 1983. 27 Third, the undersigned has no authority to grant plaintiff's request for a "full pardon." See 28 *Iseli v. CA*, No. 2:22-cv-2173 DJC AC P, 2025 WL 1557303, at *1 (E.D.

Cal. June 2, 2025) 1 (denying plaintiff's motion for a pardon because "the relief sought is not within this Court's 2 authority"). Pardon and clemency proceedings "are conducted by the

executive branch, 3 independent of direct appeal and collateral relief proceedings.” Ohio Adult Parole Auth. v. 4 Woodard, 523 U.S. 272, 284 (1998).

The undersigned recommends that plaintiff’s separate yet 5 duplicative “request for full pardon” (ECF No. 6) be denied for these same reasons. 6 II. No Leave to Amend 7 Having conducted the screening required by 28 U.S.C. § 1915A, the undersigned finds 8 that plaintiff’s complaint does not state any valid claims for relief against defendant State of 9 California.

28 U.S.C. § 1915A(b)(1); see also § 1915(b)(2) (grounds for dismissal includes 10 “seek[ing] monetary relief from a defendant who is immune from such relief.”). Because of these 11 defects, the court will not order the complaint to be served on defendant. 12 “A district court should not dismiss a pro se complaint without leave to amend unless it is 13 absolutely clear that the deficiencies of the complaint could not be cured by amendment.” Akhtar 14 v. Mesa, 698 F.3d 1202, 1212 (9th Cir.

2012) (citation and internal quotation marks omitted). 15 Here, because defendant State of California’s immunity from suit cannot be cured by amendment, 16 plaintiff’s complaint should be dismissed without leave to amend.

In light of the recommendation 17 to dismiss without leave to amend, the undersigned also recommends that plaintiff’s motion to 18 consolidate cases (ECF No. 11) be denied as moot. 19 III. Plain Language Summary of this Order for Party Proceeding Without a Lawyer 20 Your complaint is being dismissed because the facts alleged are not enough to state a 21 claim.

You are not being given a chance to fix these problems in an amended complaint because 22 the State of California cannot be sued under 42 U.S.C. § 1983. Should you choose to file a new 23 42 U.S.C. § 1983 action to try to vindicate your rights and the rights of child victims, the 24 undersigned encourages you to review the legal authorities above for guidance on identifying the 25 proper defendants and alleging cognizable claims.

26 ///// 27 ///// 28 //// 1 CONCLUSION 2 In accordance with the above, IT IS HEREBY ORDERED that the Clerk of the Court 3 | shall randomly assign a United States District Judge to this action. 4 Additionally, IT IS HEREBY RECOMMENDED that: 5 1. Plaintiffs request for leave to proceed in forma pauperis (ECF No. 2) be DENIED; 6 2. Plaintiff’s complaint be dismissed without leave to amend for failure to state a claim, 7 || 28US.C. § 1915A(b)(1)-(2); 8 3.

Plaintiff’s request for full pardon (ECF No. 6) be denied; and 9 4. Plaintiffs request to consolidate cases (ECF No. 11) be denied. 10 These findings and recommendations will be submitted to the United States District Judge 11 || assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one days 12 | after being served with these findings and recommendations, plaintiff may file written objections 13 | with the court.

The document should be captioned “Objections to Magistrate Judge's Findings 14 | and Recommendations.” Plaintiff is advised that failure to file objections within the specified 15 || time may result in waiver of the right to appeal the district court’s order. Martinez v. □□□□ 951 16 | F.2d 1153 (9th Cir. 1991). 17 | DATED: July 3, 2025 18 kmh 19 SEAN C. RIORDAN 50 UNITED STATES MAGISTRATE JUDGE 21 22 23 24 25 26 27 28