

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

Hector Gutierrez v. County of Los Angeles

Gutierrez v. County of Los Angeles, No. CV 24-10415 MCS (AS) (C.D. Cal. Mar. 17, 2025) · No. CV 24-10415
MCS (AS) · Decided March 17, 2025

OPINION

Hector Gutierrez v. County of Los Angeles

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 CENTRAL DISTRICT OF CALIFORNIA

10

11 HECTOR GUTIERREZ,) NO. CV 24-10415 MCS (AS)

) 12 Plaintiff,))

13 v.) ORDER DISMISSING COMPLAINT WITH

)

14 COUNTY OF LOS ANGELES, et al.,) LEAVE TO AMEND

) 15 Defendants.)) 16 17 On November 28, 2024, Hector Gutierrez (“Plaintiff”), proceeding 18
pro se and in forma pauperis, filed a Complaint pursuant to 42 U.S.C. 19 § 1983. (Docket (“Dkt.”)
No. 1). For the reasons set forth below, the 20 FAC must be dismissed with leave to amend.1 21

22 PLAINTIFF’S ALLEGATIONS

23 24 Plaintiff’s Complaint names as defendants the County of Los 25 Angeles (“County”), the
Los Angeles County Sheriff’s Department and its 26 27 1 Magistrate judges may dismiss a
complaint with leave to amend 28 without approval from the district judge. *McKeever v. Block*,
932 F.2d 795, 798 (9th Cir. 1991). 1 Court Services Division (collectively “Sheriff’s
Department”),2 2 Sheriff’s Department employees Captain John J. Lecrivain, Sergeants 3 Ayub B.
Mangra and Ochoa, and Deputies Megarit, Sepulveda, and Burwell, 4 and Does 1-10. (Complaint
at 1-3).3 The Sheriff’s Department employees 5 and Doe Defendants are sued in their individual
capacities. (Complaint 6 at 1). 7 8 Plaintiff alleges that on November 29, 2022, he went to
Department 9 S08 in the George Deukmejian Courthouse in Long Beach, California, and 10 sat
down. (Complaint at 6-8). After some time, Deputy Megarit – who 11 Plaintiff describes as “very
aggressive, overzealous, and out of 12 control” – told Plaintiff to put his cell phone in his pocket.
13 (Complaint at 8). Plaintiff protested and Deputy Megarit threatened to 14 “trespass[]” Plaintiff.
(Id.). Plaintiff then “took his device out of 15 [Deputy Megarit’s] sight.”4 (Id.). 16 17 2 The Court
will refer to the County and Sheriff’s Department 18 collectively as the “County Defendants.” 19
3 Fed. R. Civ. P. 10(b) requires that a “party must state its claims or defenses in numbered

paragraphs, each limited as far as 20 practicable to a single set of circumstances.” Although Plaintiff has 21 attempted to number his allegations, he has done so inconsistently. For example, item no. 37 spans six pages and multiple paragraphs. This 22 does not comply with Rule 10(b). Accordingly, the Court will refer to the Complaint’s allegations by page number. If Plaintiff files a First 23 Amended Complaint, he should – as this Court has repeatedly explained to him – separately number each paragraph. See *Gutierrez v. Cnty. of 24 Los Angeles*, 2024 WL 4799872, *1 n.2 (C.D. Cal. 2024); *Gutierrez v. 25 City of Riverside*, 2024 WL 5265370, *1 n.4 (C.D. Cal. 2024), report and recommendation accepted by, 2025 WL 220947 (C.D. Cal. 2025). 26 4 Plaintiff also complains that Superior Court Judge Jennifer Cops 27 – who is not a Defendant in this matter – observed this interaction, but failed to intervene to control Deputy Megarit. (Complaint at 9- 28 10). 2 1 After a discussion concerning another individual’s cell phone use, 2 Deputy Megarit “decided to threaten and trespass” Plaintiff from the 3 courtroom. (Complaint at 10-11). Plaintiff protested, “stood his 4 ground and remained in the courtroom[,]” and Deputy Megarit responded 5 by summoning assistance to remove Plaintiff from the courtroom. 6 (Complaint at 11-14 (capitalization omitted)). 7 8 Deputy Sepulveda responded and “essentially told Plaintiff to get 9 out of the courtroom” or be removed by force. (Complaint at 13-14). 10 Plaintiff then left the courtroom against his will. (Complaint at 14). 11 12 In the hallway, Plaintiff protested to Deputy Sepulveda and asked 13 him why he removed Plaintiff from the courtroom. (Complaint at 14, 14 16). Deputy Sepulveda responded “I have no idea[.]” (Complaint at 15 16 (capitalization omitted)). Plaintiff continued to loudly protest to 16 Deputy Sepulveda until Sergeant Ochoa arrived. (Complaint at 16-17). 17 Plaintiff complained to Sergeant Ochoa about being removed from the 18 courtroom, Sergeant Ochoa told Plaintiff he would investigate, and 19 Sergeant Ochoa then went into the courtroom after speaking to Deputy 20 Megarit. (Complaint at 17). 21 22 A little later, Plaintiff wanted to return to the courtroom to 23 obtain answers from Sergeant Ochoa and Judge Cops, but he was 24 obstructed from doing so. (Complaint at 17). Plaintiff continued to 25 protest and Deputy Burwell, who had just arrived on the scene, told 26 Plaintiff to lower his voice and watch his language. (Complaint at 17- 27 18). Plaintiff responded to Deputy Burwell that he “and any citizen 28 can go as far as telling a police officer to go ‘fuck his mother’ and 3 1 . . . that police officer better just stand there and take it. That’s 2 the job.” (Complaint at 18 (capitalization omitted)). 3 4 Plaintiff was in “disbelief” when Deputy Burwell then “put his 5 hands” on Plaintiff and threatened Plaintiff that if he told Deputy 6 Burwell “‘to go fuck his mother’ Plaintiff would be very sorry[] and 7 ‘it would be the last thing he would do.’” (Complaint at 18-19 (some 8 capitalization omitted)). Plaintiff asserts he was harmed by Deputy 9 Burwell’s “assault and battery” as well as the failure of Deputy 10 Sepulveda and Does 9-10 – who were “spectators” – to intervene. 11 (Complaint at 19). 12 13 Thereafter, Sergeant Mangra arrived, asked Plaintiff what he 14 wanted, and Plaintiff responded he wanted to file Watch Commander 15 Service Comment Reports (“WCSCRs”) against everyone involved. 16 (Complaint at 19-20). However, Sergeant Mangra did not take 17 Plaintiff’s report and instead

took steps to discourage Plaintiff from filing WCSCRs by creating a false narrative of active warrants against Plaintiff. (Complaint at 21). To date no WCSCRs have been written. 20 (Complaint at 22). 21 22 Based on these allegations, Plaintiff raises six claims for 23 relief: (1) violation of, and conspiracy to violate, Plaintiff's First, 24 Fourth, Fifth and Fourteenth Amendment rights; (2) a Monell⁵ claim; (3) 25 assault and battery; (4) negligence; (5) gross negligence; and (6) 26 intentional infliction of emotional distress. (Complaint at 1, 22-32). 27 28 5 Monell v. Dep't of Soc. Servs., 436 U.S. 658 (1978). 4

1 STANDARD OF REVIEW

2 3 Since Plaintiff is proceeding in forma pauperis, Plaintiff's 4 Complaint is subject to sua sponte review and must be dismissed if it 5 is: (1) frivolous or malicious; (2) fails to state a claim upon which 6 relief may be granted; or (3) seeks monetary relief from a defendant 7 immune from such relief. See 28 U.S.C. § 1915(e)(2)(B); Lopez v. 8 Smith, 203 F.3d 1122, 1126-27 (9th Cir. 2000) (en banc); Barren v. 9 Harrington, 152 F.3d 1193, 1194 (9th Cir. 1998); see also Calhoun v. 10 Stahl, 254 F.3d 845, 845 (9th Cir. 2001) (per curiam) (Section 11 1915(e)(2) applies to all complaints brought by plaintiffs proceeding 12 in forma pauperis). 13 14 Dismissal for failure to state a claim is appropriate if Plaintiff 15 fails to proffer "enough facts to state a claim to relief that is 16 plausible on its face." Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 17 (2007); Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). "A claim has 18 facial plausibility when the plaintiff pleads factual content that 19 allows the court to draw the reasonable inference that the defendant is 20 liable for the misconduct alleged." Iqbal, 556 U.S. at 678; Hartmann 21 v. Cal. Dep't of Corr. & Rehab., 707 F.3d 1114, 1122 (9th Cir. 2013). 22 Although Plaintiff must provide "more than labels and conclusions, and 23 a formulaic recitation of the elements of a cause of action will not 24 do," Twombly, 550 U.S. at 555; Iqbal, 556 U.S. at 678, "[s]pecific 25 facts are not necessary; the [complaint] need only give the 26 [Defendants] fair notice of what the . . . claim is and the grounds 27 upon which it rests." Erickson v. Pardus, 551 U.S. 89, 93 (2007) (per 28 5 1 curiam) (citations and internal quotation marks omitted); Twombly, 550 2 U.S. at 555. 3 4 In considering whether to dismiss a complaint, the Court must 5 accept the factual allegations of the complaint as true, Wood v. Moss, 6 572 U.S. 744, 755 n.5 (2014); Erickson, 551 U.S. at 93-94, construe the 7 pleading in the light most favorable to the pleading party, and resolve 8 all doubts in the pleader's favor. Jenkins v. McKeithen, 395 U.S. 411, 9 421 (1969); Berg v. Popham, 412 F.3d 1122, 1125 (9th Cir. 2005). Pro 10 se pleadings are "to be liberally construed" and are held to a less 11 stringent standard than those drafted by a lawyer. Erickson, 551 U.S. 12 at 94; Haines v. Kerner, 404 U.S. 519, 520 (1972) (per curiam); see 13 also Hebbe v. Pliler, 627 F.3d 338, 342 (9th Cir. 2010) ("Iqbal 14 incorporated the Twombly pleading standard and Twombly did not alter 15 courts' treatment of pro se filings; accordingly, we continue to 16 construe pro se filings liberally when evaluating them under Iqbal."). 17 Dismissal for failure to state a claim can be warranted based on either 18 the lack of a cognizable legal theory or the absence of factual support 19 for a cognizable legal theory. Pell v. Nuñez, 99 F.4th 1128, 1133 (9th

20 Cir. 2024). A complaint may also be dismissed for failure to state a
21 claim if it discloses some fact or complete defense that will 22 necessarily defeat the claim.
Rivera v. Peri & Sons Farms, Inc., 735 23 F.3d 892, 902 (9th Cir. 2013). 24 \ 25 \ 26 \ 27 \ 28 \
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1 DISCUSSION

2 3 The Court has reviewed the Complaint under the aforementioned 4 standards and has
concluded the Complaint is deficient and must be 5 dismissed with leave to amend. 6 7 Initially,
“a pro se litigant is not excused from knowing the most 8 basic pleading requirements.” American
Ass’n of Naturopathic 9 Physicians v. Hayhurst, 227 F.3d 1104, 1107-08 (9th Cir. 2000). For 10
instance, Rule 8 of the Federal Rules of Civil Procedure requires that 11 a complaint contain “a
short and plain statement of the claim showing 12 that the pleader is entitled to relief[.]” Fed. R.
Civ. P. 8(a)(2); 13 see also Fed. R. Civ. P. 8(d)(1) (“Each allegation must be simple, 14 concise,
and direct.”). “The ‘short and plain statement’ must provide 15 defendants with ‘fair notice of
what the plaintiff’s claim is and the 16 grounds upon which it rests.’” Dura Pharm., Inc. v.
Broudo, 544 U.S. 17 336, 346 (2005) (citation omitted); see also Skaff v. Meridien N. Am. 18
Beverly Hills, LLC, 506 F.3d 832, 841 (9th Cir. 2007) (per curiam) (The 19 “purpose of a
complaint under Rule 8 [is] to give the defendant fair 20 notice of the factual basis of the claim
and of the basis for the 21 court’s jurisdiction.”); Jones v. Cmty. Redevelopment Agency, 733 F.2d
22 646, 649 (9th Cir. 1984) (“[A] pleading must give fair notice and state 23 the elements of the
claim plainly and succinctly.” (citation and 24 internal punctuation omitted)). To do so, “Rule 8(a)
(2) . . . requires 25 a ‘showing,’ rather than a blanket assertion, of entitlement to 26 relief[.]” and
“[f]actual allegations must be enough to raise a right 27 to relief above the speculative level, on
the assumption that all the 28 allegations in the complaint are true (even if doubtful in fact).” 7 1
Twombly, 550 U.S. at 555-56 (citations omitted); Cook v. Brewer, 637 2 F.3d 1002, 1004 (9th Cir.
2011). “[T]he pleading standard Rule 8 3 announces does not require ‘detailed factual allegations,’
but it 4 demands more than an unadorned, the-defendant-unlawfully-harmed-me 5 accusation.”
Iqbal 556 U.S. at 678 (quoting Twombly, 550 U.S. at 555). 6 7 Plaintiff has not met this basic
pleading requirement. 8 Plaintiff’s Complaint purports to set forth six causes of action, but 9 does
so in a mostly conclusory fashion. For instance, while the 10 caption of Plaintiff’s Complaint
raises four state law claims (Claims 11 Three through Six), these claims are nowhere pled in the
body of the 12 Complaint. (See Complaint at 1, 22-32). Additionally, Plaintiff’s 13 first cause of
action is brought pursuant to Section 1983 and alleges 14 each Defendant and Does 1-4 violated
Plaintiff’s First, Fourth, Fifth, 15 and Fourteenth Amendment rights and conspired to deprive
Plaintiff of 16 those rights. (Complaint at 22-24). But Plaintiff does no more than 17 list the
constitutional amendments allegedly violated without 18 explaining which Defendant he believes
violated which constitutional 19 amendment. (Id.). Thus, the Court and Defendants are left to
guess 20 which allegations are brought against which Defendants. Such 21 conclusory pleading
fails to satisfy Rule 8’s requirements.6 See Iqbal, 22 556 U.S. at 678 (“A pleading that offers

‘labels and conclusions’ or ‘a 23 formulaic recitation of the elements of a cause of action will not do.’ 24 25 6 Additionally, Plaintiff’s Complaint is unsigned, which violates Rule 11 and Local Rule 11-1. See Fed. R. Civ. P. 11(a) (“Every 26 pleading, . . . must be signed . . . by a party personally if the party is unrepresented.”); Local Rule 11-1 (“All documents, except 27 declarations, shall be signed by the attorney for the party or the party appearing pro se. The name of the person signing the document 28 shall be clearly typed below the signature line.”). 8 1 Nor does a complaint suffice if it tenders ‘naked assertion[s]’ devoid 2 of ‘further factual enhancement.’” (quoting *Twombly*, 550 U.S. at 555, 3 557)); *McHenry v. Renne*, 84 F.3d 1172, 1178 (9th Cir. 1996) (Rule 8 is 4 not satisfied when “one cannot determine from the complaint who is 5 being sued, for what relief, and on what theory, with enough factual 6 detail to guide discovery.”); *McZeal, Jr. v. Blue Castle (Cayman) Ltd.*, 7 2024 WL 5361194, *3 (C.D. Cal. 2024) (“By failing to differentiate 8 among Defendants or specify which Defendant is the subject of 9 Plaintiff’s various allegations, the Complaint violates Federal Rule of 10 Civil Procedure 8(a)(2) because it fails to provide Defendants with 11 fair notice of its alleged misconduct.”), report and recommendation 12 accepted by, 2025 WL 316243 (C.D. Cal. 2025).7 13 \ 14 \ 15 \ 16 \ 17 18 7 Rule 8(a)(3) requires a complaint state “a demand for the relief sought, which may include relief in the alternative or different types 19 of relief.” Fed. R. Civ. P. 8(a)(3); see also Fed. R. Civ. P. 9(g) (“If an item of special damage is claimed, it must be specifically 20 stated.”). Here, Plaintiff titles his complaint as a “Complaint for Damages” (Complaint at 1 (some capitalization omitted)), and briefly 21 references damages in the body of the Complaint (see Complaint at 2, 23 22 (“This action at law for money damages. . . .”)), but does not conclude with a prayer for relief. Cf. *Iten v. Cnty. of Los Angeles*, 81 F.4th 23 979, 985 (9th Cir. 2023) (“A well-pleaded complaint typically has a demand for relief, which follows from the plaintiff’s ‘short and plain 24 statement’ of how the defendant has injured him.”). This arguably 25 fails to comply with Fed. R. Civ. P. 8(a)(3). See *Moten v. Pulido*, 2022 WL 3566816, *6 (C.D. Cal. 2022) (“Plaintiff’s Complaint 26 . . . fails to comply with Rule 8(a)(3) in that the pleading fails to set forth a separate demand for the relief that plaintiff is seeking 27 against any defendant.”). However, given Plaintiff’s failure to satisfy Rule 8’s short and plain statement requirement, the Court need 28 not further explore this issue. 9 1 Given this Rule 8 violation, Plaintiff’s Complaint must be 2 dismissed with leave to amend. The Court cannot further screen the 3 Complaint until Plaintiff complies with Rule 8’s pleading requirements.8 4

5 ORDER

6 7 Plaintiff’s Complaint (Docket No. 1) is DISMISSED WITH LEAVE TO 8 AMEND. If Plaintiff still wishes to pursue this action, he shall file 9 a First Amended Complaint within thirty (30) days, which cures the 10 pleading defects discussed herein. The First Amended Complaint shall 11 be complete in itself without reference to any pleading or other 12 document. See Local Rule 15-2 (“Every amended pleading filed as a 13 matter of right or allowed by order of the Court shall be complete 14 including exhibits. The amended pleading shall not refer to the prior, 15

superseded pleading.”). In addition, the First Amended Complaint may 16 8 This includes addressing Plaintiff’s purported Monell claim 17 against the County Defendants based on an alleged failure to train. 18 (See Complaint at 24-32). Nor can the Court consider, at this juncture, whether the individual Defendants were acting as state – not 19 county – employees while providing security in the Superior Court. See, e.g., Chavez v. Villanueva, 699 F. Supp. 3d 844, 861 (C.D. Cal. 20 2023) (“Here, Defendant Guerrero (as part of the [Los Angeles County Sheriff’s Department]) was providing courtroom security to the Norwalk 21 Courthouse. . . . Defendant Guerrero at all relevant times was paid by 22 and functioning as an arm of the State of California. Eleventh immunity thus applies to all the official capacity claims (including 23 the Monell claims) asserted against Defendants.”), appeal dismissed by, 2024 WL 4851419 (9th Cir. 2024); Jackson v. McMahon, 2019 WL 8647818, 24 *3 n.6 (C.D. Cal. 2019) (“Although the Eleventh Amendment generally 25 does not bar suits against local government entities, county sheriff’s departments may be entitled to Eleventh Amendment immunity when they 26 act on behalf of the state. Several district courts in this circuit have determined that when county sheriffs in California are providing 27 security for state court, they act as state officials, and are thus entitled to Eleventh Amendment immunity when sued in their official 28 capacity.” (citation omitted)). 10 1 not include new defendants or claims not reasonably related to the 2 allegations in the previously filed Complaint. Plaintiff is strongly 3 encouraged to utilize the standard civil rights complaint form when 4 filing any amended complaint, a copy of which is attached. 5 6 Plaintiff is explicitly cautioned that failure to timely file a 7 First Amended Complaint, or failure to correct the deficiencies 8 described herein, will result in a recommendation that this action be 9 dismissed for failure to prosecute and/or failure to comply with a 10 court order. Plaintiff is further advised that if he no longer wishes 11 to pursue this action, he may file a Notice of Dismissal in accordance 12 with Federal Rule of Civil Procedure 41(a)(1). A form Notice of 13 Dismissal is attached for Plaintiff’s convenience. 14 15 16 DATED: March 17, 2025 /s/

ALKA SAGAR

17 UNITED STATES MAGISTRATE JUDGE

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