

**UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA, SAN JOSE DIVISION**

In re CIM-SQ Transfer Cases

No. 5:20-cv-06326-EJD, United States District Court for the Northern District of California, San Jose Division
(July 30, 2025)

OPINION

IN RE CIM-SQ TRANSFER CASES

PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 SAN JOSE DIVISION

7 8 9 IN RE CIM-SQ TRANSFER CASES Case No. 5:20-cv-06326-EJD 10

ORDER OF SERVICE

This Document Relates To: 11 25-cv-01728; Mackey v. Broomfield 12 13

14 INTRODUCTION

15 Plaintiff, a California prisoner, filed a pro se civil rights action. The case was consolidated 16
with cases in this district related to the 2020 prisoner transfer from the California Institution for 17
Men (CIM) to San Quentin State Prison (SQSP)¹ in May 2020 and related to the first case filed,
18 No. 5:20-cv-06326-EJD, which now has the caption “In Re CIM-SQ Transfer Cases.” The
Court

19 dismissed the complaint with leave to amend. Plaintiff has filed a First Amended Complaint 20
(FAC). Dkt. No. 219 in Case No. 20-cv-06326. The FAC is now before the Court for screening 21
pursuant to 28 U.S.C. § 1915A(a), and service of the complaint on defendants is ordered. 22
Because the case is part of the consolidated “In Re CIM-SQ Transfer Cases,” service shall 23
therefore proceed in plaintiff’s case as ordered below, but the case will remain stayed for all other
24 purposes. The docket for Case No. 25-cv-01728 and all other individual dockets have been 25
closed. If plaintiff wishes to file any motions, he must file them in Case No. 5:20-cv-06326-EJD
26 and include his original case number, No. 25-cv-01728, on the left side of the heading. 27

1 STANDARD OF REVIEW

2 Federal courts must engage in a preliminary screening of cases in which prisoners seek 3 redress
from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 4
1915A(a). The Court must identify cognizable claims or dismiss the complaint, or any portion of 5
the complaint, if the complaint “is frivolous, malicious, or fails to state a claim upon which relief
6 may be granted,” or “seeks monetary relief from a defendant who is immune from such relief.”
Id. 7 § 1915A(b). Pro se pleadings must be liberally construed. *Balistreri v. Pacifica Police Dep’t*,

901 8 F.2d 696, 699 (9th Cir. 1990). 9 Federal Rule of Civil Procedure 8(a)(2) requires only “a short and plain statement of the 10 claim showing that the pleader is entitled to relief.” “Specific facts are not necessary; the 11 statement need only give the defendant fair notice of what the . . . claim is and the grounds upon 12 which it rests.” *Erickson v. Pardus*, 127 S. Ct. 2197, 2200 (2007) (citations omitted). Although to 13 state a claim a complaint “does not need detailed factual allegations, . . . a plaintiff’s obligation to 14 provide the grounds of his entitle[ment] to relief requires more than labels and conclusions, and a 15 formulaic recitation of the elements of a cause of action will not do Factual allegations must 16 be enough to raise a right to relief above the speculative level.” *Bell Atlantic Corp. v. Twombly*, 17 127 S. Ct. 1955, 1964-65 (2007) (citations omitted). A complaint must proffer “enough facts to 18 state a claim for relief that is plausible on its face.” *Id.* at 1974. 19 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two elements: (1) that a 20 right secured by the Constitution or laws of the United States was violated, and (2) that the alleged 21 violation was committed by a person acting under the color of state law. *West v. Atkins*, 487 U.S. 22 42, 48 (1988). 23 If a court dismisses a complaint for failure to state a claim, it should “freely give 24 leave” to amend “when justice so requires.” Fed. R. Civ. P. 15(a)(2). A court has discretion to 25 deny leave to amend due to “undue delay, bad faith or dilatory motive on the part of the movant, 26 repeated failure to cure deficiencies by amendment previously allowed, undue prejudice to the 27 opposing party by virtue of allowance of the amendment, [and] futility of amendment.”

1 LEGAL CLAIMS

2 Plaintiff’s FAC names as defendants Ronald Broomfield, Acting Warden SQSP; CDCR 3 Secretary Ralph Diaz; Kathleen Allison, Director of CDCR, and Dr. Joseph Bink, CCHCS. He 4 alleges that his Eighth Amendment rights were violated during his time at SQSP by the 5 defendants’ deliberate indifference in transferring 122 people from CIM to SQSP in May of 2020 6 and plaintiff’s resulting COVID-19 infection. He seeks damages. 7 Liberally construed, plaintiff’s allegations state a plausible claim for deliberate 8 indifference to plaintiff’s safety against defendants, in violation of the Eighth Amendment. 9 *Farmer v. Brennan*, 511 U.S. 825, 837 (1994).

10 CONCLUSION

11 1. The Court orders that service on the following defendants shall proceed under the 12 California Department of Corrections and Rehabilitation’s (“CDCR”) e-service program for civil 13 rights cases from prisoners in the CDCR’s custody: 14 a. Ronald Broomfield 15 b. Ralph Diaz 16 c. Kathleen Allison 17 d. Joseph Bink 18 In accordance with the program, the clerk is directed to serve on the CDCR via email the 19 following documents: the operative complaint (Dkt. No. 209 in case No. 20-cv-06326), this Order 20 of Service, a CDCR Report of E-Service Waiver form, and a summons. The clerk also shall serve 21 a copy of this order on the plaintiff. 22 No later than 40 days after service of this order via email on the CDCR, the CDCR shall 23 provide the court a completed CDCR Report of E-Service Waiver advising the court which 24

defendant(s) listed in this order will be waiving service of process without the need for service by 25 the USMS and which defendant(s) decline to waive service or could not be reached. The CDCR 26 also shall provide a copy of the CDCR Report of E-Service Waiver to the California Attorney 27 General's Office which, within 21 days, shall file with the Court a waiver of service of process for 1 Upon receipt of the CDCR Report of E-Service Waiver, the clerk shall prepare for each 2 defendant who has not waived service according to the CDCR Report of E-Service Waiver a 3 USM-285 Form. The clerk shall provide to the USMS the completed USM-285 forms and copies 4 of this order, the summons and the operative complaint for service upon each defendant who has 5 not waived service. The clerk also shall provide to the USMS a copy of the CDCR Report of E- 6 Service Waiver. 7 2. All defendants are cautioned that Rule 4 of the Federal Rules of Civil Procedure 8 requires them to cooperate in saving unnecessary costs of service of the summons and complaint. 9 Pursuant to Rule 4, if defendants, after being notified of this action and asked by the Court, on 10 behalf of plaintiff, to waive service of the summons, fail to do so, they will be required to bear the 11 cost of such service unless good cause can be shown for their failure to sign and return the waiver 12 form. 13 3. All communications by plaintiff with the Court must be served on defendants' 14 counsel by mailing a true copy of the document to defendants' counsel. The Court may disregard 15 any document which a party files but fails to send a copy of to his opponent. Until defendants' 16 counsel has been designated, plaintiff may mail a true copy of the document directly to 17 defendants, but once defendants are represented by counsel, all documents must be mailed to 18 counsel rather than directly to defendants. 19 4. Plaintiff is responsible for prosecuting this case. Plaintiff must promptly keep the 20 Court informed of any change of address and must comply with the Court's orders in a timely 21 fashion. Failure to do so may result in the dismissal of this action for failure to prosecute pursuant 22 to Federal Rule of Civil Procedure 41(b). Plaintiff must file a notice of change of address in every 23 pending case every time he is moved to a new facility. 24 5. Any motion for an extension of time must be filed no later than the deadline sought 25 to be extended and must be accompanied by a showing of good cause. Plaintiff is cautioned that 26 he must include the case name and case number for this case on any document he submits to the 27 Court for consideration in this case.] 6. The case will remain stayed for all purposes other than service of the complaint on 2 || defendants. 3 IT IS SO ORDERED. 4 5 || Dated: July 30, 2025

EDWARD J. DAVILA

6 United States District Judge 7 8 9 10 1] as 12 13 «14 16 17 Oo Z 18 19 20 21 22 23 24 25 26 27 28