

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

George A. Laguer v. H. Arreola, et al.

Laguer v. Arreola · No. 1:24-cv-00979-KES-SAB (PC) · Decided July 2, 2025

OPINION

(PC)Laguer v. Arreola

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10

11 GEORGE A. LAGUER, No. 1:24-cv-00979-KES-SAB (PC)

12 Plaintiff, FINDINGS AND RECOMMENDATIONS

RECOMMENDING DEFENDANTS’

13 v. MOTION TO DISMISS BE GRANTED

14 H. ARREOLA, et al., (ECF No. 20) 15 Defendants. 16 17 Plaintiff is proceeding pro se and in
forma pauperis in this action filed pursuant to 42 18 U.S.C. § 1983. 19 Currently before the Court
is Defendants’ motion to dismiss Plaintiff’s official capacity 20 claims, filed May 10, 2025. (ECF
No. 20.) 21 I.

22 RELEVANT BACKGROUND

23 This action is proceeding on Plaintiff’s failure to protect claim against Defendants August 24
Vasquez, L. Pantoja, F. Correia, and John Does 1 through 3. 25 Defendants filed the instant
motion to dismiss on May 10, 2025. Plaintiff did not file an 26 opposition and the time to do has
passed. Local Rule 230(l). 27 /// 28 1 II.

2 COMPLAINT ALLEGATIONS

3 Plaintiff, as a LGBTQ inmate, was set-up to be harmed and attacked with weapons by 4 officers
at Kern Valley State Prison (KVSP). On September 18, 2023, Plaintiff spoke with 5 Vasquez and
other unknown officers about the STG’s 25er gang threats to stab her. Plaintiff was 6 later let out
of her cell and attacked the STG 25er gang for no reason. Lieutenant Arreola knew 7 the assault
was going to happen, and L. Pantoja and F. Correia were told about the possible 8 threats to her
life. The patio security and escort officers (John Does 1 through 3) were notified as 9 well and
they turned a blind eye. Defendants failed to take reasonable measures to protect 10 Plaintiff from
the other inmates who threatened harm to her life. Plaintiff received injuries to his 11 hands, body,
face and suffered emotional and mental distress. 12 After the incident was over, lieutenant Arreola
ordered Doe officers to handcuff Plaintiff 13 and left him on the patio for over 11 hours in over 90

degrees temperature. Plaintiff was forced to eat while handcuffed, despite continuing to ask for the handcuffs to be removed due to the pain and swelling. All of the Defendants refused to uncuff Plaintiff stating that lieutenant Arreola ordered to leave her handcuffed. Plaintiff was seen by a nurse and given a CDCR form 7219 (medical report).

LEGAL STANDARD

Rule 12(b)(6) of the Federal Rules of Civil Procedures provides for motions to dismiss for “failure to state a claim upon which relief can be granted.” Fed. R. Civ. P. 12(b)(6). In considering a motion to dismiss pursuant to Rule 12(b)(6), the court must accept as true the allegations of the complaint in question, *Erickson v. Pardus*, 551 U.S. 89 (2007), and construe the pleading in the light most favorable to the plaintiff. *Jenkins v. McKeithen*, 395 U.S. 411, 421 (1969); *Meek v. County of Riverside*, 183 F.3d 962, 965 (9th Cir. 1999). Still, to survive dismissal for failure to state a claim, a pro se complaint must contain more than “naked assertions,” “labels and conclusions” or “a formulaic recitation of the elements of a cause of action.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-57 (2007). In other words, “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements do not suffice.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Furthermore, a claim upon which the court can grant relief must have facial plausibility. *Twombly*, 550 U.S. at 570. “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. 6 at 678. “As a general rule, a district court may not consider any material beyond the pleadings in ruling on a Rule 12(b)(6) motion.” *Lee v. City of Los Angeles*, 250 F.3d 668, 688 (9th Cir. 2001) (internal quotes and citation omitted), overruled on other grounds by *Galbraith v. County of Santa Clara*, 307 F.3d 1119 (9th Cir. 2002). Otherwise, the motion is treated as one for summary judgment. *Lee*, 250 F.3d at 688. There are exceptions for material which is properly submitted as part of the complaint and “matters of public record” which may be judicially noticed. *Id.* at 688- 89. “If the documents are not physically attached to the complaint, they may be considered if the documents’ ‘authenticity ... is not contested’ and ‘the plaintiff’s complaint necessarily relies’ on them.” *Id.* at 688 (quoting *Parrino v. FHD, Inc.*, 146 F.3d 699, 705-06 (9th Cir. 1998)). A motion to dismiss for failure to state a claim should not be granted unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claims which would entitle him to relief. *Hishon v. King & Spaulding*, 467 U.S. 69, 73 (1984). In general, pro se pleadings are held to a less stringent standard than those drafted by lawyers. *Haines v. Kerner*, 404 U.S. 519, 520 (1972). The court has an obligation to construe such pleadings liberally. *Bretz v. Kelman*, 773 F.2d 1026, 1027 n.1 (9th Cir. 1985) (en banc). However, the court’s liberal interpretation of a pro se complaint may not supply essential elements of the claim that were not pled. *Ivey v. Bd. of Regents of Univ. of Alaska*, 673 F.2d 266, 268 (9th Cir. 1982).

DISCUSSION

26 Claims for damages against the state, its agencies, or its officers for actions performed in 27
their official capacities are barred under the Eleventh Amendment, unless the state waives its 28
immunity. *Kentucky v. Graham*, 473 U.S. 159, 169 (1985). Section 1983 does not abrogate the 1
states' Eleventh Amendment immunity from suit. See *Quern v. Jordan*, 440 U.S. 332, 344-45 2
(1979); see also *Hafer v. Melo*, 502 U.S. 21, 30 (1991) (clarifying that the Eleventh Amendment 3
does not bar suits against state officials sued in their individual capacities, nor does it bar suits for
4 prospective injunctive relief against state officials sued in their official capacities). Although a 5
"narrow exception exists" for prospective relief under the *Ex Parte Young* doctrine, *Krainski v. 6*
Nevada ex rel. Bd. of Regents of Nevada Sys. of Higher Educ., 616 F.3d 963, 967 (9th Cir. 2010).
7 Plaintiff seeks no prospective relief here. (See ECF No. 1 at 8.) In this action, Plaintiff is seeking
8 only monetary compensation from Defendants, but she is doing so in both their official and 9
individual capacities. (ECF No. 1 at 5:27-28.) Because the State has not consented to this action,
10 Eleventh Amendment sovereign immunity bars all damage claims against Defendants in their
11 official capacities. 12 Plaintiff also cannot sue Defendants in their official capacities because
Defendants, while 13 acting in such a capacity, are not "persons" under § 1983, and because
Plaintiff did not bring 14 injunctive claims against them. As the Supreme Court explained in *Will*
v. Michigan Dep't of 15 State Police, 491 U.S. 58, 65 (1989), a "State is not a 'person' within the
meaning of § 1983" 16 because "a suit against a state official in his or her official capacity
is" essentially "a suit against 17 the State itself," and "officials acting in their official capacities
are [not] 'persons' under § 1983" 18 and thus cannot be sued for damages absent consent from the
State. *Id.* at 71. For these reasons, 19 Plaintiff's claims against Defendants in their official
capacities are not cognizable under § 1983. 20 V.

21 RECOMMENDATIONS

22 Accordingly, IT IS HEREBY RECOMMENDED that: 23 1. Defendants motion to dismiss
(ECF No. 20) be granted; and Plaintiff's claims 24 against Defendants in their official capacity be
dismissed. 25 2. Defendants be ordered to file an answer within fourteen days from the date of any
26 order adopting these Findings and Recommendations. 27 These Findings and
Recommendations will be submitted to the United States District 28 Judge assigned to the case,
pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen 1 | (14) days after being
served with these Findings and Recommendations, the parties may file 2 | written objections with
the Court, limited to 15 pages in length, including exhibits. The 3 | document should be captioned
"Objections to Magistrate Judge's Findings and 4 | Recommendations." The parties are advised
that failure to file objections within the specified 5 | time may result in the waiver of rights on
appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 6 | (9th Cir. 2014) (citing *Baxter v. Sullivan*,
923 F.2d 1391, 1394 (9th Cir. 1991)). 7

8 IT IS SO ORDERED. FA. ee

9 | Dated: _ July 1, 2025

STANLEY A. BOONE

10 United States Magistrate Judge 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28

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