

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Eshawn Maurice Harrell v. Denise Lee, et al.

Harrell v. Lee · No. 25-cv-07433-NW · Decided January 23, 2026

OPINION

Harrell

PER CURIAM.

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4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 ESHAWN MAURICE HARRELL, Case No. 25-cv-07433-NW 8 Plaintiff,

ORDER SCREENING AND

9 v. DISMISSING COMPLAINT

10 DENISE LEE, et al., Defendants. 11 12 13 Plaintiff Eshawn Maurice Harrell, a state detainee,
filed a pro se civil rights complaint 14 under 42 U.S.C. § 1983. ECF No. 1. The Complaint is now
before the Court for screening 15 pursuant to 28 U.S.C. § 1915A(a). For the reasons outlined
below, the Court DISMISSES the 16 Complaint.

17 I. BACKGROUND

18 Harrell alleges that private defenders Denise Lee and Mark Compari misplaced and refused 19
to file a copy of his petition for writ of habeas corpus and a letter he wrote to the judge presiding
20 over his probation violation proceedings. Harrell alleges that their conduct was negligent,
caused 21 him negligent infliction of emotional distress, and violated his right to due process. He
also 22 alleges that he is falsely imprisoned. He seeks monetary damages.

23 II. LEGAL STANDARD

24 Federal courts conduct a preliminary screening of cases in which prisoners seek redress 25
from a governmental entity, an officer, or an employee of a governmental entity. 28 U.S.C. 26
§ 1915A(a). In its review, the Court must identify any cognizable claims, and dismiss any claims
27 that are frivolous, malicious, fail to state a claim upon which relief may be granted, or seek 1
monetary relief from a defendant who is immune from such relief. Id. at § 1915A(b)(1), (2). Pro 2
se pleadings must be liberally construed. *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 3
(9th Cir. 1990). 4 Federal Rule of Civil Procedure 8(a)(2) requires only “a short and plain
statement of the 5 claim showing that the pleader is entitled to relief.” Although a complaint “does
not need detailed 6 factual allegations, . . . a plaintiff’s obligation to provide the ‘grounds’ of his
‘entitle[ment] to 7 relief’ requires more than labels and conclusions, and a formulaic recitation of
the elements of a 8 cause of action will not do Factual allegations must be enough to raise a

right to relief above 9 the speculative level.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (citations omitted). 10 A complaint must proffer “enough facts to state a claim to relief that is plausible on its face.” *Id.* 11 at 570. The United States Supreme Court has explained the “plausible on its face” standard of 12 *Twombly*: “While legal conclusions can provide the framework of a complaint, they must be 13 supported by factual allegations. When there are well-pleaded factual allegations, a court should 14 assume their veracity and then determine whether they plausibly give rise to an entitlement to 15 relief.” *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009). 16 To state a claim under Section 1983, a plaintiff must allege that: (1) a right secured by the 17 Constitution or laws of the United States was violated, and (2) the alleged deprivation was 18 committed by a person acting under the color of state law. See 42 U.S.C. § 1983; *West v. Atkins*, 19 487 U.S. 42, 48 (1988). 20 Liability may be imposed on an individual defendant under Section 1983 if the plaintiff 21 can show that the defendant’s actions actually and proximately caused the deprivation of a 22 federally protected right. *Lemire v. Cal. Dep’t of Corrections & Rehabilitation*, 726 F.3d 1062, 23 1074 (9th Cir. 2013); *Leer v. Murphy*, 844 F.2d 628, 634 (9th Cir. 1988). “A person deprives 24 another ‘of a constitutional right, within the meaning of Section 1983, if he does an affirmative 25 act, participates in another’s affirmative acts, or omits to perform an act which he is legally 26 required to do that causes the deprivation of which [the plaintiff complains].’” *Leer*, 844 F.2d at 27 633 (quoting *Johnson v. Duffy*, 588 F.2d 740, 743 (9th Cir. 1978)).

1 III. DISCUSSION

2 A. Federal Claims 3 Harrell’s complaint names two defense attorneys as Defendants. While public defenders 4 and defense attorneys are not immune from suit, they are not subject to liability under 42 U.S.C. 5 § 1983 because they are not state actors. See *Polk County v. Dodson*, 454 U.S. 312, 318–19 6 (1981) (public defenders not state actors when performing traditional lawyer functions); *Simmons 7 v. Sacramento Cnty. Super. Ct.*, 318 F.3d 1156, 1161 (9th Cir. 2003) (private defense attorneys are 8 not state actors). Here, Harrell alleges that Defendants violated his rights based on their failure to 9 file his petition or give the judge Harrell’s letter, which he gave to them due to their roles as legal 10 counsel. ECF No. 1 at 2. Even assuming that Defendants’ decision not to file the documents was 11 incorrect, the decision whether to file a habeas petition or give a judge ex parte communications 12 from their client clearly falls within the purview of a lawyer’s traditional function. See *Miranda v. 13 Clark Cnty., Nevada*, 319 F.3d 465, 468 (9th Cir. 2003) (public defender’s decision not to hire 14 investigator fell within traditional lawyer function). Harrell’s former defense attorneys are 15 therefore not proper Defendants for purposes of 42 U.S.C. § 1983. The federal claims against 16 them are DISMISSED WITHOUT LEAVE TO AMEND. See *Wheeler v. City of Santa Clara*, 17 894 F.3d 1046, 1059 (9th Cir. 2018) (“Leave to amend may be denied if the proposed amendment 18 is futile or would be subject to dismissal.”). 19 B. State Law Claims 20 Given that Harrell fails to state a cognizable federal claim, the Court presently has no basis 21 for jurisdiction over Harrell’s state law claims. Federal courts are courts

of limited jurisdiction, 22 and a “federal court is presumed to lack jurisdiction in a particular case unless the contrary 23 affirmatively appears.” *Stock W., Inc. v. Confederated Tribes*, 873 F.2d 1221, 1225 (9th Cir. 24 1989). Generally, original federal jurisdiction is premised on federal question jurisdiction or 25 diversity jurisdiction. Here, Plaintiff has not asserted a cognizable violation of federal law or 26 diversity jurisdiction. Where a plaintiff is acting pro se and the Court finds that the plaintiff’s 27 complaint fails to state a cognizable federal claim (see 28 U.S.C. § 1915(e)(2)), the Court must 1 deficiencies clearly cannot be cured by amendment. *Akhtar v. Mesa*, 698 F.3d 1202, 1212 (9th 2 || Cir. 2012). Because Harrell cannot amend his federal claims and the face of the Complaint shows 3 || that no diversity jurisdiction exists, the Court concludes that the deficiencies cannot be cured by 4 amendment. See ECF No. | at 2 (stating that both Defendants are in Redwood City, California). 5 The state law claims are DISMISSED WITHOUT PREJUDICE to Harrell seeking relief 6 || in the appropriate venue.

7 || IV. CONCLUSION

8 The Court orders as follows: 9 1. The claims against Lee and Compari are DISMISSED WITHOUT LEAVE TO 10 AMEND. 11 2. The state law claims are DISMISSED WITHOUT PREJUDICE to Harrell 12 seeking relief in the appropriate venue. 13 3. As no other claims or defendants remain, the case is DISMISSED. 14 4. The Clerk shall close the file. 3 15 IT IS SO ORDERED. a 16 || Dated: January 23, 2026 18 United States District Judge 19 20 21 22 23 24 25 26 27 28