

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

Hammitt v. El Dorado County Jail, et al.

No. 2:24-cv-2863-JDP (P), 2025 WL unavailable (E.D. Cal. Apr. 17, 2025) · No. 2:24-cv-2863-JDP (P) ·

Decided April 18, 2025

OPINION

(PC) Hammitt v. El Dorado County Jail

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 THOMAS FRANKLIN HAMMITT, Case No. 2:24-cv-2863-JDP (P) 12 Plaintiff, 13 v.
ORDER 14 EL DORADO COUNTY JAIL, et al., 15 Defendants. 16 17 18 Plaintiff, a county
pretrial detainee proceeding pro se, alleges in his first amended 19 complaint that El Dorado
County Jail, Sheriff Jeff Leikauf, and Deputy Sheriff Duncan violated 20 his Fourteenth
Amendment right not to be subjected to excessive force. ECF No. 9. Plaintiff 21 fails to state
cognizable claims against El Dorado County Jail and Duncan but does state 22 potentially
colorable Fourteenth Amendment claims against Sheriff Leikauf. Plaintiff may, if he 23 chooses,
file an amended complaint that addresses the deficiencies noted herein, or proceed only 24 on the
Fourteenth Amendment claims against Sheriff Leikauf. 25 Screening and Pleading Requirements
26 A federal court must screen the complaint of any claimant seeking permission to proceed 27 in
forma pauperis. See 28 U.S.C. § 1915(e). The court must identify any cognizable claims and 28
dismiss any portion of the complaint that is frivolous or malicious, fails to state a claim upon 1
which relief may be granted, or seeks monetary relief from a defendant who is immune from such
2 relief. Id. 3 A complaint must contain a short and plain statement that plaintiff is entitled to
relief, 4 Fed. R. Civ. P. 8(a)(2), and provide “enough facts to state a claim to relief that is plausible
on its 5 face,” Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007). The plausibility standard
does not 6 require detailed allegations, but legal conclusions do not suffice. See Ashcroft v. Iqbal,
556 U.S. 7 662, 678 (2009). If the allegations “do not permit the court to infer more than the mere
8 possibility of misconduct,” the complaint states no claim. Id. at 679. The complaint need not 9
identify “a precise legal theory.” Kobold v. Good Samaritan Reg’l Med. Ctr., 832 F.3d 1024, 10
1038 (9th Cir. 2016). Instead, what plaintiff must state is a “claim”—a set of “allegations that 11
give rise to an enforceable right to relief.” Nagrampa v. MailCoups, Inc., 469 F.3d 1257, 1264 12
n.2 (9th Cir. 2006) (en banc) (citations omitted). 13 The court must construe a pro se litigant’s
complaint liberally. See Haines v. Kerner, 404 14 U.S. 519, 520 (1972) (per curiam). The court
may dismiss a pro se litigant’s complaint “if it 15 appears beyond doubt that the plaintiff can

prove no set of facts in support of his claim which 16 would entitle him to relief.” *Hayes v. Idaho Corr. Ctr.*, 849 F.3d 1204, 1208 (9th Cir. 2017). 17 However, ““a liberal interpretation of a civil rights complaint may not supply essential elements 18 of the claim that were not initially pled.”” *Bruns v. Nat’l Credit Union Admin.*, 122 F.3d 1251, 19 1257 (9th Cir. 1997) (quoting *Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982)). 20 Analysis 21 Plaintiff brings three Fourteenth Amendment claims against El Dorado County Jail, 22 Sheriff Leikauf, and Deputy Sheriff Duncan, each stemming from plaintiff breaking his toe while 23 exiting a jail transport van while shackled. ECF No. 9 at 4, 6, 8-10. First, he alleges that El 24 Dorado County Jail and Sheriff Leikauf implemented a policy that subjected pretrial detainees to 25 different restraints based on their housing unit within the jail. *Id.* at 4. He alleges that pretrial 26 detainees are subjected to wearing leg shackles based on their classifications, which in turn are 27 arbitrarily decided, and notes that pretrial detainees in the “dorm” setting are not subjected to leg 28 restraints. *Id.* 1 Next, plaintiff contends that Sheriff Leikauf failed to conduct safety testing on his 2 transport vans and their potential to injure shackled individuals entering or exiting the van. *Id.* at 3 6. He states that the transport vans do not have handrails, the steps do not have a smooth 4 transition from the seating area to the exit, and the rear seats force individuals to pivot their 5 bodies at odd angles. *Id.* at 6, 8. He contends that these conditions are dangerous to individuals 6 who are shackled at the waist and feet because the chains could become entangled. *Id.* at 6. He 7 also alleges that El Dorado County Jail has a policy and practice of purchasing these transport 8 vans without ensuring that the vans can safely transport shackled pretrial detainees. *Id.* at 10. 9 Finally, plaintiff contends that Duncan was responsible for his safe transport. *Id.* at 8. 10 When plaintiff exited the van, he alleges that Duncan witnessed plaintiff’s leg shackles become 11 entangled at the steps, but he did not step in to help plaintiff. *Id.* Plaintiff seeks only monetary 12 damages. *Id.* at 11. 13 Plaintiff’s claims against El Dorado County Jail are not cognizable because he only seeks 14 monetary damages. Because a § 1983 claim for monetary damages can only be brought against a 15 person acting under color of state law, and a state and its entities are not “persons” for purposes of 16 § 1983, plaintiff fails to state a claim against El Dorado County Jail. See *Will v. Mich. Dep’t of State Police*, 491 U.S. 58, 64 (1989); *Bank of Lake Tahoe v. Bank of America*, 318 F.3d 914, 918 18 (9th Cir. 2003). 19 Additionally, plaintiff’s allegations against Duncan fail to state a claim. The Fourteenth 20 Amendment’s protection for pretrial detainees prohibits “excessive force that amounts to 21 punishment.” *Kingsley v. Hendrickson*, 576 U.S. 389, 397 (2015). “[A] pretrial detainee must 22 show only that the force purposely or knowingly used against him was objectively unreasonable.”

23 *Id.* at 396-97. Plaintiff does not allege that Duncan used any force against him. As such, he fails

24 to state a cognizable claim against Duncan. 25 However, for the purposes of screening, plaintiff’s allegations against Sheriff Leikauf 26 state cognizable Fourteenth Amendment claims. To bring a claim against a supervisory 27 defendant, a plaintiff must allege that (1) he was

deprived of a constitutional right, (2) the City 28 and/or Department has a policy, custom, or practice which amounted to deliberate indifference to 1 that constitutional right; and (3) the policy, custom, or practice was the moving force behind the 2 constitutional violation. See *Dougherty v. City of Covina*, 654 F.3d 892, 900-01 (9th Cir. 2011) 3 (citing *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 694 (1978)). “[A] local government may not 4 be sued under § 1983 for an injury inflicted solely by its employees or agents.” *Monell*, 436 U.S. 5 at 694. Instead, a local government may be sued when an employee who committed a 6 constitutional violation was “acting pursuant to an expressly adopted official policy, longstanding 7 practice or custom, or as a final policymaker.” *Thomas v. Cnty. of Riverside*, 763 F.3d 1167, 8 1170 (9th Cir. 2014) (citing *Monell*, 436 U.S. at 694). The complaint alleges that plaintiff was 9 deprived of a constitutional right to be free from excess force in his shackling and being placed in 10 an unsafe transport van, that Sheriff Leikauf had a policy, custom, or practice that was 11 deliberately indifferent to plaintiff’s constitutional rights, and the policy or practice was the 12 moving force behind plaintiff’s constitutional violation. As such, plaintiff’s Fourteenth 13 Amendment excessive force claims against Sheriff Leikauf based on his practice of shackling 14 plaintiff and then placing him in an unsafe transport van which resulting in plaintiff breaking his 15 toe may proceed. 16 Plaintiff may either notify the court that he wishes to proceed on his cognizable 17 Fourteenth Amendment claims against defendant Sheriff Leikauf, in which case I will direct 18 service, or he may elect to amend his complaint. If plaintiff amends his complaint, I will delay 19 serving any defendant and will screen his amended complaint in due course. Plaintiff is reminded 20 that any amended complaint will supersede the current complaint. See *Lacey v. Maricopa Cnty.*, 21 693 F.3d 896, 907 n.1 (9th Cir. 2012) (en banc). The amended complaint should be titled 22 “Second Amended Complaint” and refer to the appropriate case number. 23 Accordingly, it is hereby ORDERED that: 24 1. Within thirty days from the service of this order, plaintiff must indicate his intent 25 to proceed only with his Fourteenth Amendment claims against defendant Sheriff Leikauf, or he 26 must file another amended complaint. If he selects the latter, no defendants will be served until 27 the new complaint is screened. 28 2. The Clerk of Court shall send plaintiff a § 1983 complaint form with this order. 1 | 1718 SO ORDERED. 3 (— Dated: _ April 17, 2025 ssn (aoe

4 JEREMY D. PETERSON

UNITED STATES MAGISTRATE JUDGE

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