

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

William Angelo Latten, Jr. v. J. Benavidez, et al.

No. 2:23-cv-1879-DAD-SCR, United States District Court for the Eastern District of California (November 24,
2025)

OPINION

Benavidez

PER CURIAM.

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7 UNITED STATES DISTRICT COURT

8 FOR THE EASTERN DISTRICT OF CALIFORNIA

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10 WILLIAM ANGELO LATTEN, JR., No. 2:23-cv-1879-DAD-SCR

11 Plaintiff, 12 v. ORDER

13 J. BENAVIDEZ, et al., FINDINGS AND RECOMMENDATIONS

14 Defendants. 15

16 Plaintiff is an incarcerated person representing himself in this civil rights action filed 17
pursuant to 42 U.S.C. § 1983. This case is proceeding on Eighth Amendment excessive force 18
claims against defendants Salinas-Gonzalez and Ortiz-Garcia and an Eighth Amendment failure
19 to protect claim against defendant Warstler. ECF No. 18 (screening order). Currently pending
20 before the court is defendants' motion to dismiss the second amended complaint on the basis
that 21 the claims are barred by Heck v. Humphrey, 512 U.S. 477 (1994). ECF No. 38. Plaintiff
has not 22 filed an opposition and the time to do so has expired. For the reasons explained in
further detail 23 below, the undersigned recommends denying the motion to dismiss. 24 I. Factual
and Procedural History 25 In the second amended complaint,¹ plaintiff alleges that while
incarcerated at the 26 27 1 The amended complaint does not indicate what date any of the events
occurred. However, plaintiff's original complaint asserted that these same events occurred on
January 20, 2023. 28 Compare ECF No. 17 with ECF No. 1. 1 California Medical Facility
("CMF"), he was punched in the face by Correctional Officer Ortiz- 2 Garcia. ECF No. 17 at 4.
After raising his hands with palms facing out to show his lack of 3 resistance, plaintiff was
punched again in the face with a closed fist by defendant Ortiz-Garcia. 4 ECF No. 17 a 4.
Correctional Officer Salinas-Gonzalez also punched plaintiff repeatedly in the 5 face. Id.
Defendant Salinas-Gonzalez told plaintiff to "cuff up" and then immediately grabbed 6 plaintiff's
legs and forced him to the ground. Id. Salinas-Gonzalez then struck plaintiff in the 7 face and
head. Id. Correctional Officer Warstler watched the use of force on plaintiff by the 8 other two
defendants and did not intervene. ECF No. 17 at 5. Plaintiff denies resisting defendant 9 Salinas

Gonzalez's application of handcuffs to him. Id. 10 Defendants seek dismissal of the second amended complaint on the grounds that the 11 claims are barred by *Heck v. Humphrey*, 512 U.S. 477 (1994). ECF No. 38-1. In support of the 12 motion, defendants request that the court take judicial notice of records from the Solano County 13 Superior Court demonstrating that plaintiff entered a no contest plea to obstructing or resisting an 14 executive officer in the performance of their duties by means of threats, force, or violence in 15 violation of California Penal Code § 69. ECF No. 38-2 at 11-17. As part of this plea, plaintiff 16 stipulated to the following factual basis to support his plea: "On January 20, 2023 the [plaintiff] 17 while a confined person serving a prison sentence at the California Medical Facility in the County 18 of Solano, did willfully and unlawfully resist lawful orders by Correctional Officer Y. Salinas 19 Gonzalez using force." ECF No. 38-2 at 23 (transcript of plea hearing). Defendants argue that 20 these stipulated facts show that "Plaintiff was the true aggressor, attacking Defendants, while 21 Defendants' response was lawful." ECF No. 38-1 at 7. Defendants contend that "[t]his case 22 would, in effect, re-litigate Plaintiff's conviction for his January 20, 2023 attack, on which he 23 pleaded no contest in Solano County, stipulating that he unlawfully resisted Officer Salinas- 24 Gonzalez's lawful orders while using force." ECF No. 38-1 at 7. Since plaintiff's conviction has 25 not been invalidated, defendants assert that his § 1983 claims are barred by *Heck*. ECF No. 38-1 26 at 6. 27 II. Legal Standards 28 A motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) tests the legal 1 sufficiency of the claims alleged in the complaint. *Ileto v. Glock Inc.*, 349 F.3d 1191, 1199-1200 2 (9th Cir. 2003). Dismissal under Rule 12(b)(6) may be based on either: (1) lack of a cognizable 3 legal theory; or (2) insufficient facts under a cognizable legal theory. *Chubb Custom Ins. Co. v. 4 Space Sys./Loral, Inc.*, 710 F.3d 946, 956 (9th Cir. 2013). In considering a motion to dismiss, the 5 court must accept as true the allegations of the complaint in question, *Hospital Bldg. Co. v. 6 Trustees of Rex Hospital*, 425 U.S. 738, 740 (1976), construe the pleading in the light most 7 favorable to the party opposing the motion, and resolve all doubts in the pleader's favor, *Jenkins 8 v. McKeithen*, 395 U.S. 411, 421 (1969). Additionally, pro se pleadings are held to a less 9 stringent standard than those drafted by lawyers. *Haines v. Kerner*, 404 U.S. 519, 520 (1972) (per 10 curiam). In ruling on a motion to dismiss pursuant to Rule 12(b)(6), the court "may generally 11 consider only allegations contained in the pleadings, exhibits attached to the complaint, and 12 matters properly subject to judicial notice." *Outdoor Media Group, Inc. v. City of Beaumont*, 506 13 F.3d 895, 899 (9th Cir. 2007) (citation and quotation marks omitted). 14 In *Heck v. Humphrey*, 512 U.S. 477 (1994), the Supreme Court held that a state prisoner 15 may not bring a civil suit for damages pursuant to 42 U.S.C. § 1983 which questions the validity 16 of his underlying conviction until he has had the conviction set aside. However, where "a 17 successful section 1983 action for excessive force would not necessarily imply the invalidity of 18 [plaintiff's] arrest or conviction, *Heck* does not preclude [plaintiff's] excessive force claim." 19 *Smithart v. Towery*, 79 F.3d 951, 952-53 (9th Cir. 1996) (per curiam). 20 III. Analysis 21 The court first addresses defendants' request for judicial notice of "the Court filings, 22 orders, plea agreement, and

transcripts in Superior Court of California, Solano County Case No 23 F23-00402” supporting their motion to dismiss. Rule 201 of the Federal Rules of Evidence 24 allows a court to take judicial notice of “a fact that is not subject to reasonable dispute” which is 25 “generally known within the trial court’s territorial jurisdiction,” or “can be accurately and readily 26 determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 27 201(b). Under this rule, judicial notice is appropriate for publicly available records such as 28 hearing transcripts from other court proceedings. *Foster Poultry Farms v. Alkar-Rapidpak-MP 1 Equip., Inc.*, 868 F. Supp. 2d 983, 990 (E.D. Cal. 2012). Judicial notice of the court records 2 submitted by defendants is appropriate. 3 Turning to the merits of defendants’ motion to dismiss, the recent Ninth Circuit decision 4 in *King v. Villegas*, --- F.4th ---, 2025 WL 2950508 (Oct. 20, 2025), controls the outcome. In 5 *King*, the Ninth Circuit held that evidence of a nolo contendere plea was not admissible under

6 Rule 410(a) of the Federal Rules of Evidence to prove that a § 1983 excessive force claim is Heck

7 barred. As result, the district court erred in considering “both evidence of ‘a nolo contendere 8 plea’ and ‘statements made during a proceeding on’ that plea ‘in a civil case’ against ‘the 9 defendant who made the plea’” under Rule 410(a). *King*, 2025 WL 2950508 at *5. The Ninth 10 Circuit emphasized that “[n]either King’s plea nor statements during the hearing culminating in 11 his nolo plea constituted admissions of the factual basis for the plea.” *Id.* Thus, the district court 12 erred in admitting plaintiff’s nolo plea as well as the stipulated factual basis supporting the plea in 13 determining whether the § 1983 claims were Heck barred. Based on this precedential decision, 14 defendants are foreclosed from relying on plaintiff’s no contest plea in the Solano County 15 Superior Court as evidence that his claims in this case are Heck barred. Accordingly, the 16 undersigned recommends denying defendants’ motion to dismiss. 17 IT IS HEREBY ORDERED that defendants’ request for judicial notice (ECF No. 38-2) is 18 granted. 19 IT IS FURTHER RECOMMENDED that: 20 1. Defendants’ motion to dismiss (ECF No. 38) be denied; and, 21 2. Defendants be required to answer plaintiff’s second amended complaint within 30 days of 22 an order adopting these Findings and Recommendations, if they are adopted. 23 These findings and recommendations are submitted to the United States District Judge 24 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty one days 25 after being served with these findings and recommendations, any party may file written 26 objections with the court and serve a copy on all parties. Such a document should be captioned 27 “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the 28 objections shall be filed and served within fourteen days after service of the objections. The 1 || parties are advised that failure to file objections within the specified time may waive the right to 2 || appeal the District Court’s order. *Martinez v. YIst*, 951 F.2d 1153 (9th Cir. 1991). 3 | DATED: November 24, 2025

6 SEAN C. RIORDAN

UNITED STATES MAGISTRATE JUDGE

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