

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

**John Patrick Smylie v. Plumas County District Attorney's Office, et
al.**

No. 2:25-cv-2064 DC CSK P (E.D. Cal. Aug. 27, 2025) · No. No. 2:25-cv-2064 DC CSK P · Decided August
27, 2025

OPINION

(PC) Smylie v. Plumas County District Attorney Office

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 JOHN PATRICK SMYLIE, No. 2:25-cv-2064 DC CSK P

12 Plaintiff, ORDER 13 v.

14 PLUMAS COUNTY DISTRICT

ATTORNEY’S OFFICE, et al., 15 Defendants. 16

17 I. INTRODUCTION

18 Plaintiff is a county prisoner proceeding pro se. Plaintiff seeks relief pursuant to 19 42 U.S.C. §
1983 and requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. 20 This
proceeding was referred to this Court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1). 21
Plaintiff submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a). 22
Accordingly, the request to proceed in forma pauperis is granted. 23 Plaintiff is required to pay the
statutory filing fee of \$350.00 for this action. 28 U.S.C. 24 §§ 1914(a), 1915(b)(1). By this order,
plaintiff is assessed an initial partial filing fee in 25 accordance with the provisions of 28 U.S.C. §
1915(b)(1). By separate order, the court will direct 26 the appropriate agency to collect the initial
partial filing fee from plaintiff’s trust account and 27 forward it to the Clerk of the Court.
Thereafter, plaintiff is obligated to make monthly payments 28 of twenty percent of the preceding
month’s income credited to plaintiff’s trust account. These 1 payments will be forwarded by the
appropriate agency to the Clerk of the Court each time the 2 amount in plaintiff’s account exceeds
\$10.00, until the filing fee is paid in full. 28 U.S.C. 3 § 1915(b)(2). 4 As discussed below,
plaintiff’s complaint is dismissed with leave to amend.

5 II. SCREENING STANDARDS

6 The court is required to screen complaints brought by prisoners seeking relief against a 7
governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The 8

court must dismiss a complaint or portion thereof if the prisoner raised claims that are legally 9
“frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek
10 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1),
(2). 11 A claim is legally frivolous when it lacks an arguable basis either in law or in fact. 12
Neitzke v. Williams, 490 U.S. 319, 325 (1989); Franklin v. Murphy, 745 F.2d 1221, 1227-28 (9th
13 Cir. 1984). The court may, therefore, dismiss a claim as frivolous when it is based on an
14 indisputably meritless legal theory or where the factual contentions are clearly baseless.
Neitzke, 15 490 U.S. at 327. The critical inquiry is whether a constitutional claim, however
inartfully 16 pleaded, has an arguable legal and factual basis. See Jackson v. Arizona, 885 F.2d
639, 640 (9th
17 Cir. 1989), superseded by statute as stated in Lopez v. Smith, 203 F.3d 1122, 1130-31 (9th Cir.
18 2000) (“[A] judge may dismiss [in forma pauperis] claims which are based on indisputably 19
meritless legal theories or whose factual contentions are clearly baseless.”); Franklin, 745 F.2d at
20 1227.

21 Rule 8(a)(2) of the Federal Rules of Civil Procedure “requires only ‘a short and plain
22 statement of the claim showing that the pleader is entitled to relief,’ in order to ‘give the 23
defendant fair notice of what the . . . claim is and the grounds upon which it rests.’” Bell Atlantic
24 Corp. v. Twombly, 550 U.S. 544, 555 (2007) (quoting Conley v. Gibson, 355 U.S. 41, 47
(1957)). 25 In order to survive dismissal for failure to state a claim, a complaint must contain
more than “a 26 formulaic recitation of the elements of a cause of action;” it must contain factual
allegations 27 sufficient “to raise a right to relief above the speculative level.” Bell Atlantic, 550
U.S. at 555. 28 However, “[s]pecific facts are not necessary; the statement [of facts] need only
‘give the 1 defendant fair notice of what the . . . claim is and the grounds upon which it rests.’”
Erickson v. 2 Pardus, 551 U.S. 89, 93 (2007) (quoting Bell Atlantic, 550 U.S. at 555, citations and
internal 3 quotations marks omitted). In reviewing a complaint under this standard, the court must
accept as 4 true the allegations of the complaint in question, Erickson, 551 U.S. at 93, and
construe the 5 pleading in the light most favorable to the plaintiff. Scheuer v. Rhodes, 416 U.S.
232, 236 6 (1974), overruled on other grounds, Davis v. Scherer, 468 U.S. 183 (1984).

7 III. DISCUSSION

8 Named as defendants are the Plumas County District Attorney’s Office and Plumas 9 County
District Attorney David Drury Hollister. (ECF No. 1 at 2.) Plaintiff’s complaint contains 10 three
claims for relief and seeks money damages. 11 A. Claim One 12 Plaintiff alleges that on
December 16, 2022, plaintiff accepted a plea offer from defendant 13 Hollister for 16 months in
prison with no parole and no probation. (Id.) Plaintiff appears to claim 14 that defendant Hollister
offered this plea knowing that the California Department of Corrections 15 and Rehabilitation
(“CDCR”) would not uphold the terms of the plea agreement. (Id. at 3.) Upon 16 release from
CDCR custody, plaintiff was forced to report to parole and was placed on GPS 17 monitoring for
two years, in violation of the plea agreement. (Id.) Plaintiff alleges that defendant 18 Hollister

knew that the plea agreement was illegal and tricked plaintiff into entering it. (Id.) 19 Plaintiff also alleges that in October 2024, plaintiff was incarcerated for being under the influence 20 and given an excessive thirty day sentence. (Id.) 21 A state prosecutor is absolutely immune from § 1983 actions “when performing the 22 traditional functions of an advocate.” *Kalina v. Fletcher*, 522 U.S. 118, 131(1997). “Prosecutors 23 are entitled to qualified immunity, rather than absolute immunity, when they perform 24 administrative functions, or ‘investigative functions normally performed by a detective or police 25 officer.’” *Genzler v. Longanbach*, 410 F.3d 630, 636 (9th Cir. 2005) (quoting *Kalina*, 522 U.S. at 26 126)). When determining whether a prosecutor is entitled to absolute or qualified immunity for 27 their actions, a court should focus on “the nature of the function performed.” *Buckley v. 28 Fitzsimmons*, 509 U.S. 259, 269 (1993). “In applying this approach, [the court] distinguish[es] 1 between acts of advocacy, which are entitled to absolute immunity, and administrative and 2 ‘police-type’ investigative acts which are not. To qualify as advocacy, an act must be ‘intimately 3 associated with the judicial phase of the criminal process.’” *Patterson v. Van Arsdell*, 883 F.3d 4 826, 830 (9th Cir. 2018) (citation omitted). 5 In claim one, plaintiff alleges that defendant Hollister entered into an unenforceable plea 6 agreement with plaintiff. The Ninth Circuit has held that “[p]rosecutorial immunity extends to 7 the process of plea bargaining.” *Briley v. California*, 564 F.2d 849, 856 (9th Cir. 1977) (citation 8 omitted); see also *Pfeiffer v. Hartford Fire Ins. Co.*, 929 F.2d 1484, 1492 (10th Cir. 1991) (plea 9 bargaining is “an activity that is absolutely immune from liability due to its intimate association 10 with the judicial process.”); *Taylor v Kavanagh*, 640 F.2d 450, 453 (2d Cir. 1981) (extending the 11 doctrine of absolute immunity to prosecutor’s plea bargaining activities). Thus, defendant 12 Hollister has absolute immunity for his conduct related to the plea agreement. 13 In claim one, plaintiff also alleges that in October 2024, plaintiff received an excessive 14 sentence. No defendants are linked to this claim. The Civil Rights Act under which this action 15 was filed provides as follows: 16 Every person who, under color of [state law] . . . subjects, or causes to be subjected, any citizen of the United States . . . to the deprivation 17 of any rights, privileges, or immunities secured by the Constitution . . . shall be liable to the party injured in an action at law, suit in equity, 18 or other proper proceeding for redress. 19 42 U.S.C. § 1983. The statute requires that there be an actual connection or link between the 20 actions of the defendants and the deprivation alleged to have been suffered by plaintiff. See 21 *Monell v. Department of Social Servs.*, 436 U.S. 658 (1978); *Rizzo v. Goode*, 423 U.S. 362 22 (1976). “A person ‘subjects’ another to the deprivation of a constitutional right, within the 23 meaning of § 1983, if he does an affirmative act, participates in another's affirmative acts or 24 omits to perform an act which he is legally required to do that causes the deprivation of which 25 complaint is made.” *Johnson v. Duffy*, 588 F.2d 740, 743 (9th Cir. 1978). 26 Moreover, supervisory personnel are generally not liable under § 1983 for the actions of 27 their employees under a theory of respondeat superior and, therefore, when a named defendant 28 holds a supervisory position, the causal link between him and the claimed constitutional 1 violation must be specifically alleged. See *Fayle v. Stapley*,

607 F.2d 858, 862 (9th Cir. 1979); 2 Mosher v. Saalfeld, 589 F.2d 438, 441 (9th Cir. 1978), cert. denied, 442 U.S. 941 (1979). Vague and conclusory allegations concerning the involvement of official personnel in civil rights violations are not sufficient. See Ivey v. Board of Regents, 673 F.2d 266, 268 (9th Cir. 1982). 5 Plaintiff's claim regarding the alleged excessive sentence is dismissed because no 6 defendants are linked to this claim. To the extent plaintiff intends to name as a defendant the 7 judge who imposed the alleged excessive sentence, judges are absolutely immune from damages 8 liability for acts which are judicial in nature. See Forrester v. White, 484 U.S. 219, 227-29 (1988). Judicial immunity does not extend to acts taken in the "clear absence of all jurisdiction." 10 Stump v. Sparkman, 435 U.S. 349, 356 (1978). Because sentencing is judicial in nature, a claim 11 against a judge for imposing an excessive sentence will be dismissed on the grounds that the 12 judge is entitled to absolute immunity. 13 B. Claim Two 14 Plaintiff alleges that on May 16, 2025, while in court, defendant Hollister deliberately 15 made a false statement, claiming that plaintiff had an altercation with plaintiff's parole agent that 16 resulted in plaintiff's arrest. (ECF No. 1 at 4.) Plaintiff also alleges that on April 21, 2025, 17 defendant Hollister falsely told the court that the date of plaintiff's evaluation ordered by the 18 court was unknown. (Id.) Plaintiff alleges that because the evaluation of plaintiff resulted in a 19 diagnosis that defendant Hollister did not like, defendant Hollister questioned the date of the 20 evaluation in order to confuse the judge, which led to multiple hearings and caused plaintiff to be 21 denied diversionary sentencing on June 6, 2025. (Id.) Plaintiff alleges that "this question" lasted 22 four court dates. (Id.) 23 Prosecutors enjoy absolute immunity for "making false or defamatory statements in 24 judicial proceedings[.]" Burns v. Reed, 500 U.S. 478, 490 (1991). Thus, defendant Hollister is 25 entitled to absolute immunity for plaintiff's claim alleging that defendant Hollister made false 26 statements to the court regarding the date of plaintiff's evaluation and that plaintiff had an 27 altercation with his parole agent. 28 /// 1 C. Claim Three 2 Plaintiff alleges that on May 16, 2025, defendant Hollister twice maliciously called 3 plaintiff a "290" in court.1 (ECF No. 1 at 5.) Plaintiff alleges that plaintiff's public defender had 4 informed the court that plaintiff was mistreated in custody because defendant Hollister called 5 plaintiff a "290" in court in November 2022. (Id.) Plaintiff alleges that on May 30, 2025, 6 Sergeant Gott arrived at the courthouse stating that a tip was made that someone was going to act 7 out. (Id.) Defendant Hollister made taunting remarks toward plaintiff, stating that plaintiff was a 8 danger to others because of suicidal attempts. (Id.) Defendant Hollister said, "where he got the 9 worst of it," when discussing an altercation between plaintiff and another person that resulted in 10 plaintiff getting staples in the back of his head. (Id.) Plaintiff alleges that on June 6, 2025, 11 defendant Hollister also taunted plaintiff in court. (Id.) 12 To the extent plaintiff alleges that defendant Hollister made false or defamatory 13 statements against plaintiff in court, defendant Hollister is entitled to absolute immunity. See 14 Burns, 500 U.S. at 490. In claim three, plaintiff also appears to challenge statements made by 15 defendant Hollister in court regarding plaintiff that were true, i.e., that plaintiff was required to 16 register as a sex offender, that plaintiff had attempted suicide

and that plaintiff suffered injuries during an altercation. Prosecutors are absolutely immune from damages under § 1983 for their conduct in “initiating a prosecution and in presenting the State’s case” insofar as that conduct is “intimately associated with the judicial phase of the criminal process.” *Buckley v. Fitzsimmons*, 509 U.S. 259, 270 (1993) (quoting *Imbler v. Pachtman*, 424 U.S. 409, 430-31 (1976)). Defendant Hollister’s alleged comments regarding plaintiff that were true were made during the judicial phase of the criminal process in that they were made during court proceedings. For this reason, defendant Hollister is entitled to absolute immunity for making these alleged comments. D. Defendant Plumas County District Attorney’s Office The complaint contains no allegations against defendant Plumas County District Attorney’s Office. For this reason, the claims against defendant Plumas County District Attorney’s Office are dismissed with leave to amend. Assuming that the Plumas County District Attorney’s Office is properly subject to suit under section 1983, akin to a municipality, “[i]t is well established that ‘a municipality cannot be held liable solely because it employs a tortfeasor—or, in other words, a municipality cannot be held liable under § 1983 on a respondeat superior theory.’” *Aguaristi v. County of Merced*, 2019 WL 330908, at *3 (E.D. Cal. Jan. 25, 6 2019) (quoting *Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658, 691 (1978)). Generally, to establish municipal liability, the plaintiff must show that a constitutional right was violated, the municipality had a policy, that policy was deliberately indifferent to plaintiff’s constitutional rights, and the policy was “the moving force” behind the constitutional violation. See *Oviatt By and Through Waugh v. Pearce*, 954 F.2d 1470, 1474 (9th Cir. 1992) (citing *City of Canton v. Harris*, 489 U.S. 378, 389-91 (1989)). If plaintiff files an amended complaint naming Plumas County District Attorney’s Office as a defendant, plaintiff shall address the legal standards set forth above.

IV. LEAVE TO AMEND

In an abundance of caution, plaintiff’s complaint is dismissed with leave to amend. An amended complaint should not include the claims against defendant Hollister for which this Court found above that defendant Hollister was entitled to absolute immunity. If plaintiff files an amended complaint, plaintiff is informed that the court cannot refer to a prior pleading in order to make plaintiff’s amended complaint complete. Local Rule 220 requires that an amended complaint be complete in itself without reference to any prior pleading. This requirement exists because, as a general rule, an amended complaint supersedes the original complaint. See *Ramirez v. Cnty. of San Bernardino*, 806 F.3d 1002, 1008 (9th Cir. 2015) (“an ‘amended complaint supersedes the original, the latter being treated thereafter as non-existent.’” (internal citation omitted)). Once plaintiff files an amended complaint, the original pleading no longer serves any function in the case. Therefore, in an amended complaint, as in an original complaint, each claim and the involvement of each defendant must be sufficiently alleged.

V. CONCLUSION

28 In accordance with the above, IT IS HEREBY ORDERED that:] 1. Plaintiff's request for leave
to proceed in forma pauperis (ECF No. 2) is granted. 2 2. Plaintiff is obligated to pay the statutory
filing fee of \$350.00 for this action. Plaintiff 3 || is assessed an initial partial filing fee in
accordance with the provisions of 28 U.S.C. 4 | § 1915(b)(1). All fees shall be collected and paid
in accordance with this court's order to the 5 || Plumas County Sheriff filed concurrently herewith.
6 3. Plaintiff's complaint is dismissed. 7 4. Within thirty days from the date of this order, plaintiff
shall complete the attached 8 | Notice of Amendment and submit the following documents to the
court: 9 a. The completed Notice of Amendment; and 10 b. An original of the Amended
Complaint. 11 | Plaintiffs amended complaint shall comply with the requirements of the Civil
Rights Act, the 12 || Federal Rules of Civil Procedure, and the Local Rules of Practice. The
amended complaint must 13 || also bear the docket number assigned to this case and must be
labeled "Amended Complaint." 14 | Failure to file an amended complaint in accordance with this
order may result in the dismissal of 15 || this action. 16 17 | Dated: August 27, 2025 A aA i Aan
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19 UNITED STATES MAGISTRATE JUDGE

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

JOHN PATRICK SMYLIE, No. 2:25-cv-2064 DC CSK P

11 Plaintiff, 12

v. NOTICE OF AMENDMENT

13

PLUMAS COUNTY DISTRICT

14 ATTORNEY'S OFFICE, et al., 15 Defendants. 16 17 Plaintiff submits the following document
in compliance with the court's order 18 filed on _____ (date). 19 20 Amended
Complaint 21 (Check this box if submitting an Amended Complaint) 22 DATED: 23
_____ Plaintiff 24 25 26 27 28