

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Jones v. San Diego Sheriff's Department

Jones · No. 25-cv-00779-BAS-KSC · Decided August 5, 2025

OPINION

Jones v. San Diego Sheriffs Dept.

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 TERRELL MORENO JONES, Case No. 25-cv-00779-BAS-KSC Booking #24736966, 12
ORDER: Plaintiff, 13

v. (1) GRANTING MOTION TO

14

PROCEED IN FORMA

15 PAUPERIS (ECF No. 2); AND

SAN DIEGO SHERIFF'S DEP'T,

16 Defendant. (2) DISMISSING COMPLAINT

17 FOR FAILURE TO STATE A

CLAIM PURSUANT TO 28

18

U.S.C. §§ 1915(e)(2)(B) AND

19 1915A(b) 20

21 I. INTRODUCTION

22 Plaintiff Terrell Moreno Jones ("Plaintiff" or "Jones"), a detainee proceeding pro se, 23 has
filed a civil rights complaint pursuant to 42 U.S.C. § 1983, along with a motion to 24 proceed in
forma pauperis ("IFP"). (See ECF Nos. 1, 2.) In his Complaint, Jones alleges 25 his constitutional
rights were violated while he has been detained in San Diego County 26 jails. (ECF No. 1 at 3.)
As discussed below, the Court grants Plaintiff's IFP motion and 27 dismisses the Complaint
without prejudice. 28

1 II. MOTION TO PROCEED IFP

2 All parties instituting any civil action, suit or proceeding in a district court of the 3 United
States, except an application for writ of habeas corpus, must pay a filing fee of 4 \$405.1 See 28
U.S.C. § 1914(a). A party may initiate a civil action without prepaying the 5 required filing fee if
the Court grants leave to proceed IFP based on indigency. 28 U.S.C. 6 § 1915(a); Andrews v.

Cervantes, 493 F.3d 1047, 1051 (9th Cir. 2007). 7 To proceed IFP, plaintiffs must establish their inability to pay by filing an affidavit 8 regarding their income and assets. See Escobedo v. Applebees, 787 F.3d 1226, 1234 (9th

9 Cir. 2015). Prisoners must also submit a “certified copy of the [prisoner’s] trust fund
10 account statement (or institutional equivalent) for . . . the 6-month period immediately 11
preceding the filing of the complaint.” 28 U.S.C. § 1915(a)(2). From the certified trust 12 account
statement, the Court assesses an initial payment of 20% of (a) the average monthly 13 deposits in
the account for the past six months, or (b) the average monthly balance in the 14 account for the
past six months, whichever is greater, unless the prisoner has no assets. See 15 28 U.S.C. §
1915(b)(1), (4). Prisoners who proceed IFP must repay the entire fee in 16 installments regardless
of whether their action is ultimately dismissed. 28 U.S.C. 17 § 1915(b)(2); Bruce v. Samuels, 577
U.S. 82, 84 (2016). 18 In support of his IFP Motion, Jones has provided a copy of his prison
certificate and 19 trust account statement. (See ECF No. 2.) During the six months prior to filing
suit, Jones 20 had an average monthly balance of \$41.37 and average monthly deposits of
\$124.83; and 21 at the time he filed suit he had an available account balance of \$25.18. (Id. at 6–
7.) 22 Accordingly, the Court GRANTS Plaintiff’s IFP motion and assesses an initial partial 23
filing fee of \$24.96 pursuant to 28 U.S.C. § 1915(b)(1). This initial fee need be collected, 24
however, only if sufficient funds are available in Plaintiff’s account at the time this Order 25 26 1
Civil litigants must pay an administrative fee of \$55 in addition to the \$350 filing fee. See 27 28
U.S.C. § 1914(a) (Judicial Conference Schedule of Fees, District Court Misc. Fee Schedule, § 14
(eff. Dec. 1, 2023)). The additional \$55 administrative fee does not apply to persons granted 28 1
is executed. See 28 U.S.C. § 1915(b)(4) (providing that “[i]n no event shall a prisoner be 2
prohibited from bringing a civil action or appealing a civil or criminal judgment for the 3 reason
that the prisoner has no assets and no means by which to pay the initial partial filing 4 fee.”);
Taylor, 281 F.3d at 850 (finding that 28 U.S.C. § 1915(b)(4) acts as a “safety-valve” 5 preventing
dismissal of a prisoner’s IFP case based solely on a “failure to pay . . . due to 6 the lack of funds
available to him when payment is ordered.”). Pursuant to 28 U.S.C. 7 § 1915(b), the agency
having custody of Plaintiff will forward payments to the Clerk in 8 installment provisions until the
\$350 statutory fee is paid in full.

9 III. SCREENING PURSUANT TO 28 U.S.C. §§ 1915(e)(2)(B) AND 1915A(b)

10 A. Legal Standards 11 Pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b), the Court must
screen a 12 prisoner’s IFP complaint and sua sponte dismiss it to the extent that it is frivolous, 13
malicious, fails to state a claim, or seeks damages from defendants who are immune. See 14
Lopez v. Smith, 203 F.3d 1122, 1126–27 (9th Cir. 2000) (en banc); Rhodes v. Robinson, 15 621
F.3d 1002, 1004 (9th Cir. 2010). “The standard for determining whether a plaintiff 16 has failed to
state a claim upon which relief can be granted under § 1915(e)(2)(B)(ii) is the 17 same as the
Federal Rule of Civil Procedure 12(b)(6) standard for failure to state a claim.” 18 Watison v.
Carter, 668 F.3d 1108, 1112 (9th Cir. 2012). Rule 12(b)(6) requires that a 19 complaint “contain

sufficient factual matter . . . to state a claim to relief that is plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal quotation marks omitted). 21 While detailed factual allegations are not required, “[t]hreadbare recitals of the elements 22 of a cause of action, supported by mere conclusory statements, do not suffice” to state a 23 claim. *Id.* The “mere possibility of misconduct” or “unadorned, the defendant-unlawfully- 24 harmed me accusation[s]” fall short of meeting this plausibility standard. *Id.* 25 To state a claim under § 1983, a plaintiff must plausibly allege “both (1) deprivation 26 of a right secured by the Constitution and laws of the United States, and (2) that the 27 deprivation was committed by a person acting under color of state law.” *Tsao v. Desert 28 Palace, Inc.*, 698 F.3d 1128, 1138 (9th Cir. 2012). 1 B. Plaintiff’s Allegations 2 Plaintiff alleges that on August 3, 2024, he was housed in the San Diego Central Jail 3 (“SDCJ”). (ECF No. 1 at 3.) While Plaintiff’s charged offense was non-violent, he was 4 housed in a three-man cell with a “mentally ill inmate” and an inmate with a history of 5 violence. (*Id.*) Plaintiff was afraid because he is frail and not “in a position to . . . defend 6 [him]self.” (*Id.*) 7 At some point, Plaintiff’s cellmate with a history of violence “challenge[d]” him. 8 (*Id.*) Jones tried to ignore him but when he got off his bunk, the inmate “struck” Jones 9 twice in the head and face. (*Id.*) Jones wanted to push the “emergency button and call on 10 staff” but he was afraid he would be labeled a snitch. (*Id.*) So instead, Plaintiff “tried 11 defending [him]self by fighting.” (*Id.*) Eventually, the inmate “stopped being aggressive.” 12 (*Id.* at 4.) Some days later, the same inmate hit Jones again. (*Id.*) Jones states he was 13 again afraid to summon staff and therefore “had no choice but to fight back.” (*Id.*) 14 On November 21, 2024, Jones had an anxiety attack and told his cellmate to press 15 the emergency button. (*Id.* at 6.) But staff did not respond for “nearly a[n] hour.” (*Id.*) By 16 that time, Jones had a bloody nose and had begun vomiting. (*Id.*) It was another hour 17 before Jones received medication for his anxiety attack. (*Id.*) 18 On December 8, 2024, Jones was strip searched. (*Id.* at 5.) Staff told Jones to “bend 19 over while your legs are straight, open your cheeks and cough.” (*Id.*) Per Jones, the search 20 was more invasive than the strip search procedure performed when inmates are initially 21 booked into the jail. (*Id.*) Jones also states he “believe[s] . . . a cellular device [was] used 22 because [he] heard chirping sounds and laughs and giggles from staff.” (*Id.*) 23 On February 5, 2025, Jones filed a civil action regarding conditions at the jail. (*Id.* 24 at 8.) After receiving documents back from the lawsuit, Jones noticed someone at George 25 Bailey Detention Facility (“GBDF”)2 had “edit[ed]” his paperwork. (*Id.* at 10.) On 26 27 2 It appears Plaintiff was transferred to GBDF from SDCJ at some point after December 8, 28

1 February 16, 2025, members of Plaintiff’s family came to visit him in jail, but they were
2 “harassed and discriminated against” and the visit never took place. (*Id.* at 8.) Jones was 3 not told about his family’s attempt to visit him and only found out later when he spoke to 4 them on the phone. (*Id.*) Staff also prevented Plaintiff’s relatives from “put[ting] money 5 on [his] books.” (*Id.*) 6 On February 26, 2025, Jones alleges staff harassed a black inmate. (*Id.* at 9.) Staff 7 also left the “crossover door” open which put “both modules in total[] danger.” (*Id.*) On

8 February 28, 2025, GBDF staff conducted a surprise “raid” on Plaintiff’s module. (Id. at 9 10.) Inmates, including Jones, were strip searched and forced to “spread [their] cheeks and 10 cough 3 times” while staff “giggle[d].” (Id.) 11 On March 7, 2025, and March 8, 2025, no hot food was served for dinner. (Id. at 12 11.) Instead, inmates received peanut butter and jelly sandwiches. (Id.) On March 16, 13 2025, Plaintiff was subjected to another invasive strip search. (Id.) And on March 23, 14 2025, an inmate with a staph infection was allowed to serve soup to inmates in Plaintiff’s 15 module. (Id.) 16 C. Discussion 17 Jones alleges he was subjected to “cruel and unusual punishment” when he was 18 housed with dangerous cellmates, denied adequate medical care, and strip searched. (Id. 19 at 3–6.) He also alleges the overall conditions at SDCJ and GBDF are unsanitary, 20 dangerous, and discriminatory. (Id. at 7–11.) 21 Plaintiff has named only the “San Diego Sheriff’s Department” as a Defendant, and 22 not the individual Sheriff’s Department officers. (Id. at 2.) Departments of municipal 23 entities are not “persons” subject to suit under § 1983; therefore, a local law enforcement 24 department (like the San Diego County Sheriff’s Department) is not a proper party. See 25 *Vance v. Cnty. of Santa Clara*, 928 F. Supp. 993, 996 (N.D. Cal. 1996) (“Naming a 26 municipal department as a defendant is not an appropriate means of pleading a § 1983 27 action against a municipality.” (quoting *Stump v. Gates*, 777 F. Supp. 808, 816 (D. Colo. 28 1991), *aff’d*, 986 F.2d 1429 (10th Cir. 1993))); *Powell v. Cook Cnty. Jail*, 814 F. Supp. 1 757, 758 (N.D. Ill. 1993) (“Section 1983 imposes liability on any ‘person’ who violates 2 someone’s constitutional rights ‘under color of law.’ Cook County Jail is not a ‘person.’”). 3 The term “persons” under § 1983 encompasses state and local officials sued in their 4 individual capacities, private individuals and entities which act under color of state law, as 5 well as local governmental entities. *Vance*, 928 F. Supp. at 995–96. However, the Sheriff’s 6 Department, as a department or subdivision of the County of San Diego, is not a “person” 7 subject to suit under § 1983. See, e.g., *United States v. Kama*, 394 F.3d 1236, 1239 (9th 8 Cir. 2005) (“[M]unicipal police departments and bureaus are generally not considered 9 ‘persons’ within the meaning of [section] 1983.”); *Rodriguez v. Cnty. of Contra Costa*, No. 10 C 13-02516 SBA, 2013 WL 5946112 at *3 (N.D. Cal. Nov. 1, 2013) (citing *Hervey v. 11 Estes*, 65 F.3d 784, 791 (9th Cir. 1995)) (“Although municipalities, such as cities and 12 counties, are amenable to suit under *Monell [v. Dep’t of Social Servs., 436 U.S. 658 13 (1978)]*, sub-departments or bureaus of municipalities, such as the police departments, are 14 not generally considered “persons” within the meaning of § 1983.”); *Nelson v. Cnty. of 15 Sacramento*, 926 F. Supp. 2d 1159, 1170 (E.D. Cal. 2013) (dismissing Sacramento 16 Sheriff’s Department from section 1983 action “with prejudice” because it “is a subdivision 17 of a local government entity,” i.e., Sacramento County). Therefore, Plaintiff cannot pursue 18 claims against the San Diego Sheriff’s Department. See *Boone v. Deutsche Bank Nat’l Tr. 19 Co.*, 2017 WL 117966, at *3 (E.D. Cal. 2017) (“Because the Solano County Sheriff’s 20 Department is not a ‘person’ within the meaning of Section 1983, plaintiffs cannot maintain 21 their claims against it under that statute as a matter of law.”). 22 Furthermore, to the extent Plaintiff intends to assert a claim against the

County of San Diego itself, his allegations, as currently pleaded, are also insufficient to state a claim. A local governmental entity, like the County of San Diego, may not be held vicariously liable under section 1983 simply based on the allegedly unconstitutional acts of its employees. See *Board of Cnty. Comm'rs. v. Brown*, 520 U.S. 397, 403 (1997); *Monell v. Dep't of Social Servs.*, 436 U.S. 658, 691 (1978) (“[A] a municipality cannot be held liable solely because it employs a tortfeasor.”); *Jackson v. Barnes*, 749 F.3d 755, 762 (9th Cir. 1 2014). Instead, a municipal entity is liable under section 1983 only if the plaintiff alleges his constitutional injury was caused by employees acting pursuant to the municipality’s policy or custom. *Monell*, 436 U.S. at 691; *Villegas v. Gilroy Garlic Festival Ass’n*, 541 F.3d 950, 964 (9th Cir. 2008). And here, Jones has failed to allege any facts to suggest “the [alleged] constitutional violations were carried out pursuant to County” policy, practice, custom or failure to train. See *AE ex rel. Hernandez v. Cnty. of Tulare*, 666 F.3d 7 631, 637 (9th Cir. 2012) (stating a Monell claim requires “more than a bare allegation that government officials’ conduct conformed to some unidentified government policy or custom”). Thus, Jones has failed to state a claim against the San Diego Sheriff’s Department or San Diego County and as such, the Complaint is dismissed. See 28 U.S.C. §§ 1915(e)(2) 12 and 1915A(b). 13 D. Leave to Amend 14 Given Plaintiff’s pro se status, the Court grants him leave to amend his complaint. 15 See *Rosati v. Igbinoso*, 791 F.3d 1037, 1039 (9th Cir. 2015) (“A district court should not 16 dismiss a pro se complaint without leave to amend unless ‘it is absolutely clear that the 17 deficiencies of the complaint could not be cured by amendment.’”) (quoting *Akhtar v. Mesa*, 698 F.3d 1202, 1212 (9th Cir. 2012)).

19 IV. CONCLUSION AND ORDER

20 Accordingly, the Court: 21 1. GRANTS Plaintiff’s Motion to Proceed IFP (ECF No. 2); 22 2. DIRECTS the Facility Commander at the George Bailey Detention Facility, 23 or their designee, to collect from Plaintiff’s trust account the \$24.96 initial filing fee 24 assessed, if those funds are available at the time this Order is executed, and forward 25 whatever balance remains of the full \$350 owed in monthly payments in an amount equal 26 to twenty percent (20%) of the preceding month’s income to the Clerk of the Court each 27 time the amount in the account exceeds \$10 pursuant to 28 U.S.C. § 1915(b)(2); 28 1 3. DIRECTS the Clerk of the Court to serve a copy of this Order on the Facility 2 || Commander, George Bailey Detention Facility, 446 Alta Rd. Ste. 5300, San Diego, 3 || California, 92158; 4 4. DISMISSES Plaintiff’s Complaint in its entirety without prejudice for failing 5 state a claim pursuant to 28 U.S.C. § 1915(e)(2) and § 1915A(b); and 6 5. GRANTS Plaintiff sixty (60) days leave from the date of this Order in which 7 file a First Amended Complaint which cures the deficiencies of pleading noted in this 8 || Order. Plaintiff’s Amended Complaint must be complete by itself without reference to his 9 || original Complaint. See S.D. Cal. CivLR 15.1; *Hal Roach Studios, Inc. v. Richard Feiner 10 || & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989) (“[A]n amended pleading supersedes the 11 || original.”); *Lacey v. Maricopa Cnty.*, 693 F.3d 896, 928 (9th Cir. 2012) (noting that claims 12 || dismissed with leave to amend which are not re-alleged in an amended pleading may be 13 || “considered waived if not

repled.”). 14 If Plaintiff fails to timely file a First Amended Complaint, the Court will enter a final
15 || Order dismissing this civil action based both on failure to state a claim upon which relief 16
be granted pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and § 1915A(b)(1), and failure to 17 ||
prosecute in compliance with a court order requiring amendment. See *Lira v. Herrera*, 427 18 ||
F.3d 1164, 1169 (9th Cir. 2005) (“If a plaintiff does not take advantage of the opportunity 19 ||to fix
his complaint, a district court may convert the dismissal of the complaint into 20 || dismissal of the
entire action.”). 21 IT IS SO ORDERED. 22 23 || DATED: August 5, 2025 (yatta Bahan te A Hon.
Cynthia Bashant, Chief Judge United States District Court 25 26 27 28 -8- □□