

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Michael Alan Dean Hill v. El Dorado County, et al.

Hill v. El Dorado County · No. 2:25-cv-00751 SCR P · Decided December 4, 2025

SUMMARY

The United States District Court for the Eastern District of California screened Michael Alan Dean Hill’s first amended 42 U.S.C. § 1983 complaint under 28 U.S.C. § 1915A. The court found cognizable First and Fourteenth Amendment access-to-courts claims against Dennis Cemo and a Fourteenth Amendment procedural due process claim against C/O Balderas, but found the remaining claims insufficiently pleaded. The court granted in forma pauperis status and gave Hill the option to proceed on the screened claims or file an amended complaint.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Sean C. Riordan
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	December 4, 2025
DOCKET	2:25-cv-00751 SCR P
DISPOSITION	other
PROCEDURAL POSTURE	Screening of a pro se pretrial detainee's first amended complaint under 28 U.S.C. § 1915A, together with consideration of the plaintiff's application to proceed in forma pauperis.
STANDARD OF REVIEW	Under 28 U.S.C. § 1915A, the court must dismiss claims that are frivolous, malicious, fail to state a claim upon which relief may be granted, or seek monetary relief from an immune defendant. In assessing failure to state a claim, the court accepts well-pleaded allegations as true, construes them favorably to the plaintiff, and requires factual content sufficient to make the claim facially plausible.
PRECEDENTIAL VALUE	unknown
PARTIES	Michael Alan Dean Hill v. El Dorado County, Jonathan Eslick, Dennis Cemo, C/O Tinker, C/O Balderas

TOPICS

section 1983

prisoners rights

procedural due process

first amendment

civil procedure

PRACTICE AREAS

prisoner civil rights

constitutional law

civil procedure

criminal procedure

QUESTIONS PRESENTED

1. Whether the first amended complaint plausibly alleged a First and Fourteenth Amendment denial-of-access-to-the-courts claim based on Cemo's alleged confiscation of legal papers.
2. Whether allegations that Eslick and Cemo issued false disciplinary reports stated a Fourteenth Amendment due process or deliberate-fabrication claim.
3. Whether the complaint plausibly alleged that Tinker and Balderas denied Hill procedural due process by refusing to interview or permit witnesses at disciplinary hearings.
4. Whether Hill should be permitted to proceed in forma pauperis and amend claims that failed screening.

HOLDINGS

1. The first amended complaint stated a cognizable First and Fourteenth Amendment denial-of-access-to-the-courts claim against Cemo because Hill alleged that confiscation of legal materials prejudiced his ability to present his own criminal defense.
2. The alleged issuance of false disciplinary charges, standing alone, did not state a Fourteenth Amendment claim where the complaint and attached records showed that Hill received a disciplinary hearing and that a requested witness participated.
3. Hill's conclusory allegation that Eslick and Cemo fabricated disciplinary violations did not plausibly state a deliberate-fabrication claim because he did not identify what was fabricated or facts showing deliberate fabrication and resulting deprivation of liberty.
4. The first amended complaint stated a minimally cognizable Fourteenth Amendment procedural due process claim against Balderas because Hill alleged that he requested witnesses at a separate disciplinary hearing and the record did not show that Balderas interviewed them.

KEY QUOTATIONS

"To state a claim for the denial of access to the courts, a plaintiff must allege an actual injury, i.e., prejudice with respect to contemplated or existing litigation, such as the inability to meet a filing deadline or present a non-frivolous claim." (at 7)

"Accordingly, defendants Eslick's and Cemo's allegedly false charge does not, standing alone, violate the Fourteenth Amendment." (at 8)

"To prevail on a § 1983 claim of deliberate fabrication, a plaintiff must prove that (1) the defendant official deliberately fabricated evidence and (2) the deliberate fabrication caused the plaintiff's deprivation of liberty." (at 10)

FACTUAL BACKGROUND

Hill, a pretrial criminal detainee proceeding pro se, alleged that jail officials searched his cell and confiscated legal papers, including evidence and copies of legal requests, harming his ability to defend his criminal case. He also alleged that officials fabricated disciplinary violations, classified him as high risk, imposed extensive restrictions, and denied him a meaningful disciplinary hearing and the opportunity to present witnesses. The records attached to the complaint showed that Tinker conducted one disciplinary hearing and interviewed a requested witness, while records concerning a separate hearing conducted by Balderas reflected a request for witnesses without indicating that they were interviewed.

PROCEDURAL HISTORY

Hill filed a civil rights action under 42 U.S.C. § 1983 and submitted a first amended complaint before the original complaint had been screened. The court granted leave to proceed in forma pauperis and screened the first amended complaint. The court found cognizable claims against Cemo for denial of access to the courts and against Balderas for procedural due process, while finding the remaining claims insufficient; it gave Hill the option either to proceed on the screened claims or file an amended complaint.

DISPOSITION

other

CASES CITED

- *Neitzke v. Williams*, 490 U.S. 319, 325, 327 (1989)
- *Jackson v. Arizona*, 885 F.2d 639, 640 (9th Cir. 1989)
- *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-57, 570 (2007)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)
- *Erickson v. Pardus*, 551 U.S. 89, 93-94 (2007)
- *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974)
- *Benavidez v. County of San Diego*, 993 F.3d 1134, 1144 (9th Cir. 2021)
- *Monell v. Department of Social Services*, 436 U.S. 658, 694 (1978)
- *Rizzo v. Goode*, 423 U.S. 362, 370-71 (1976)
- *Starr v. Baca*, 652 F.3d 1202, 1207-08 (9th Cir. 2011)
- *Johnson v. Duffy*, 588 F.2d 740, 743 (9th Cir. 1978)
- *Silva v. Di Vittorio*, 658 F.3d 1090, 1102-04 (9th Cir. 2011)
- *First Amend. Coal. of Arizona, Inc. v. Ryan*, 938 F.3d 1069, 1080 (9th Cir. 2019)
- *Lewis v. Casey*, 518 U.S. 343, 349 (1996)
- *Harper v. Costa*, 2009 WL 1684599, at *2-3 (E.D. Cal. June 16, 2009), *aff'd*, 393 F. App'x 488 (9th Cir. 2010)
- *Muhammad v. Rubia*, 2010 WL 1260425, at *3 (N.D. Cal. Mar. 29, 2010), *aff'd*, 453 F. App'x 751 (9th Cir. 2011)
- *Goodwin v. Salagubang*, No. 2:18-cv-0363 JAM DMC, 2019 WL 2026507, at *2 (E.D. Cal. May 8, 2019)
- *Pierce v. County of Orange*, 526 F.3d 1190, 1205 & n.15 (9th Cir. 2008)

- Bell v. Wolfish, 441 U.S. 520, 535-37 (1979)
- Mitchell v. Dupnik, 75 F.3d 517, 524-25 (9th Cir. 1996)
- Shorter v. Baca, 101 F. Supp. 3d 876, 891 (C.D. Cal. 2015)
- Wolff v. McDonnell, 418 U.S. 539, 566 (1974)
- Serrano v. Francis, 345 F.3d 1071, 1077-78 (9th Cir. 2003)
- Sandin v. Conner, 515 U.S. 472 (1995)
- Sprewell v. Golden State Warriors, 266 F.3d 979, 988 (9th Cir.), opinion amended on denial of reh'g, 275 F.3d 1187 (9th Cir. 2001)
- Devereaux v. Abbey, 263 F.3d 1070, 1074-75 (9th Cir. 2001) (en banc)
- Costanich v. Department of Social & Health Services, 627 F.3d 1101 (9th Cir. 2010)
- Chappell v. Bess, No. 2:01-cv-1979 KJN P, 2012 WL 3276984, at *22-23 (E.D. Cal. Aug. 9, 2012)
- Hinton v. Mix, No. 1:24-cv-0960 KES BAM (PC), 2025 WL 1569053, at *10 (E.D. Cal. June 3, 2025), report and recommendation adopted, No. 1:24-cv-0960 KES BAM (PC), 2025 WL 1918564 (E.D. Cal. July 11, 2025)
- Garcia v. Kernan, No. 18-cv-2313 JLS (MSB), 2019 WL 3429175, at *9 (S.D. Cal. July 30, 2019)
- Strohmeyer v. Belanger, No. 3:14-cv-0661 RCJ WGC, 2021 WL 1097344, at *18 (D. Nev. Mar. 3, 2021), report and recommendation adopted, No. 3:14-cv-0661 RCJ WGC, 2021 WL 1687116 (D. Nev. Mar. 22, 2021), aff'd sub nom. Strohmeyer v. Beguefuth, No. 21-15760, 2023 WL 3477832 (9th Cir. May 16, 2023)
- Arnold v. International Business Machines Corp., 637 F.2d 1350, 1355 (9th Cir. 1981)
- Ivey v. Board of Regents, 673 F.2d 266, 268 (9th Cir. 1982)

OPINION

1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 FOR THE EASTERN DISTRICT OF
 CALIFORNIA 9 10 MICHAEL ALAN DEAN HILL, No. 2:25-cv-00751 SCR P 11 Plaintiff, 12 v.
 ORDER 13 EL DORADO COUNTY, et al., 14 Defendants. 15 16 Plaintiff is a pretrial criminal
 detainee proceeding pro se with a civil rights action under 42 17 U.S.C. § 1983. Plaintiff's first
 amended complaint ("FAC") is before the undersigned for 18 screening under 28 U.S.C. §
 1915A.1 For the reasons set forth below, the undersigned finds that 19 plaintiff's FAC states a
 cognizable First and Fourteenth Amendment denial of access to the courts 20 claim against
 defendant Cemo and a cognizable Fourteenth Amendment procedural due process 21 claim against
 defendant Balderas, but not other cognizable claims.

Plaintiff will be given the 22 option of proceeding on the FAC as screened or filing an amended
 complaint. 23 IN FORMA PAUPERIS 24 Plaintiff has requested leave to proceed without paying
 the full filing fee for this action, 25 under 28 U.S.C. § 1915. He has submitted a declaration
 showing that he cannot afford to pay the 26 entire filing fee. See 28 U.S.C. § 1915(a)(2).

Accordingly, plaintiff's motion to proceed in forma 27 28 1 Plaintiff filed his amended complaint
 before the court screened his original complaint. 1 pauperis is granted. This means that plaintiff is

allowed to pay the \$350.00 filing fee in monthly 2 installments that are taken from the inmate's trust account rather than in one lump sum. 28 U.S.C. § 1914(a).

As part of this order, the jail is required to remove an initial partial filing fee 4 from plaintiff's trust account. See 28 U.S.C. § 1915(b)(1). A separate order directed to the El Dorado County Sheriff requires monthly payments of twenty percent of the prior month's income 6 to be taken from plaintiff's trust account. These payments will be taken until the \$350 filing fee 7 is paid in full.

See 28 U.S.C. § 1915(b)(2). 8 **STATUTORY SCREENING OF PRISONER COMPLAINTS** 9 The court is required to screen complaints brought by prisoners seeking relief against "a 10 governmental entity or officer or employee of a governmental entity." 28 U.S.C. § 1915A(a).

In 11 performing this screening function, the court must dismiss any claim that "(1) is frivolous, 12 malicious, or fails to state a claim upon which relief may be granted; or (2) seeks monetary relief 13 from a defendant who is immune from such relief." Id. § 1915A(b). A claim is legally frivolous 14 when it lacks an arguable basis either in law or in fact.

Neitzke v. Williams, 490 U.S. 319, 325 15 (1989). The court may dismiss a claim as frivolous if it is based on an indisputably meritless 16 legal theory or factual contentions that are baseless. *Neitzke*, 490 U.S. at 327.

The critical 17 inquiry is whether a constitutional claim, however inartfully pleaded, has an arguable legal and 18 factual basis. See *Jackson v. Arizona*, 885 F.2d 639, 640 (9th Cir. 1989). 19 In order to avoid dismissal for failure to state a claim a complaint must contain more than 20 "naked assertions," "labels and conclusions" or "a formulaic recitation of the elements of a cause 21 of action." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-557 (2007).

In other words, 22 "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory 23 statements do not suffice." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A claim upon which the 24 court can grant relief has facial plausibility. *Twombly*, 550 U.S. at 570. "A claim has facial 25 plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable 26 inference that the defendant is liable for the misconduct alleged." *Iqbal*, 556 U.S. at 678.

When 27 considering whether a complaint states a claim, the court must accept the allegations as true, 28 *Erickson v. Pardus*, 551 U.S. 89, 93-94 (2007), and construe the complaint in the light most 1 favorable to the plaintiff, *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974). 2 **FACTUAL ALLEGATIONS OF THE FIRST AMENDED COMPLAINT** 3 The events underlying the FAC occurred at El Dorado County Jail.

ECF No. 10 at 1. The 4 FAC names four defendants: (1) Jonathan Eslick, Classification Lieutenant; (2) Dennis Cemo, 5 Classification Sergeant; (3) Correctional Officer (“C/O”) Tinker; and (4) C/O Balderas. Id. at 2. 6 Plaintiff’s first claim alleges a Fourteenth Amendment violation regarding a cell search 7 and harassment. ECF No. 1 at 3.

After plaintiff was attacked by Eslick, defendant Cemo and 8 nondefendant Evan searched and tossed his room and left with a bag of papers later confirmed to 9 be legal paperwork, grievance copies, and request slip copies. Id. Their actions hurt plaintiff’s 10 criminal case because he is proceeding pro per and had to determine what evidence was missing 11 and request it again.

Id. Plaintiff cannot get a “CPS report” or a “transcript of pretext,” which 12 will hurt his case. Id. 13 In his second claim, plaintiff alleges unconstitutional punishment in violation of the 14 Fourteenth Amendment. ECF No. 10 at 4. He claims defendants Eslick and Cemo, as well as 15 nondefendant Evan, fabricated violations in disciplinary reports to have him classified as high 16 risk.

Being classified high risk means being cuffed and shackled for all movement. There was 17 never a hearing to prove he was guilty, and his witnesses didn’t get to make statements. Plaintiff 18 was placed on lockdown “23+” hours a day, denied access to commissary, hygiene, and books, 19 was skipped for yard, and only received 30 minutes out of cell time to shave, shower, and use the 20 phone.

Id. 21 In his third and final claim, plaintiff alleges that defendants Tinker and Balderas were 22 assigned to perform disciplinary reviews but refused to speak to witnesses. ECF No. 10 at 5. The 23 review was a formality because defendants Eslick and Cemo had already put plaintiff in red 24 clothes to signify he was high risk. Id. Plaintiff asserts that Tinker’s and Balderas’ actions 25 violated his rights under the Fourteenth Amendment’s Due Process Clause.

Id. 26 In his request for relief, plaintiff asks that defendants Eslick and Cemo be fined and 27 terminated, that all C/Os be retrained to follow the law, and \$100,000 in punitive damages. ECF 28 No. 10 at 6. 1 LEGAL STANDARDS 2 I. 42 U.S.C. § 1983 3 A plaintiff may bring an action under 42 U.S.C. § 1983 to redress violations of “rights, 4 privileges, or immunities secured by the Constitution and [federal] laws” by a person or entity, 5 including a municipality, acting under the color of state law.

42 U.S.C. § 1983. To state a claim 6 under 42 U.S.C. § 1983, a plaintiff must show that (1) a defendant acting under color of state law 7 (2) deprived plaintiff of rights secured by the Constitution or federal statutes. *Benavidez v. 8 County of San Diego*, 993 F.3d 1134, 1144 (9th Cir. 2021). 9 II. Linkage 10 Section 1983 requires that there be an actual connection or link between the actions of the 11 defendants and the deprivation alleged to have been suffered by plaintiff.

See *Monell v. 12 Department of Social Services*, 436 U.S. 658, 694 (1978); *Rizzo v. Goode*, 423 U.S. 362, 370-71 13 (1976). Plaintiff may demonstrate that connection by alleging facts showing: (1) a defendant's 14 "personal involvement in the constitutional deprivation," or (2) that a defendant set "in motion a 15 series of acts by others" or "knowingly refus[ed] to terminate a series of acts by others, which 16 [the defendant] knew or reasonably should have known would cause others to inflict a 17 constitutional injury." *Starr v. Baca*, 652 F.3d 1202, 1207-08 (9th Cir.

2011) (quotation marks 18 and citation omitted). In other words, "[a] person 'subjects' another to the deprivation of a 19 constitutional right, within the meaning of section 1983, if he does an affirmative act, participates 20 in another's affirmative acts or omits to perform an act which he is legally required to do that 21 causes the deprivation of which complaint is made." *Johnson v. Duffy*, 588 F.2d 740, 743 (9th 22 Cir.

1978) (citation omitted). 23 DISCUSSION 24 I. Plaintiff's Claims 25 A. Claim I: Cell Search and Confiscation of Legal Paperwork 26 The undersigned construes plaintiff's first claim regarding defendant Cemo's confiscation 27 of his legal paperwork as alleging a violation of his right to access the courts.

The Ninth Circuit 28 has held that "prisoners have a right under the First and Fourteenth Amendments to litigate... 1 without active interference by prison officials." *Silva v. Di Vittorio*, 658 F.3d 1090, 1103 (9th 2 Cir. 2011) (emphasis in original); see also *First Amend. Coal. of Arizona, Inc. v. Ryan*, 938 F.3d 3 1069, 1080 (9th Cir. 2019) (recognizing category of First Amendment claims involving "active 4 interference with a prisoner's right to litigate, such as seizing and withholding the prisoner's legal 5 files") (citing *Silva*, 658 F.3d at 1102-1104).

To state a claim for the denial of access to the 6 courts, a plaintiff must allege an actual injury, i.e., prejudice with respect to contemplated or 7 existing litigation, such as the inability to meet a filing deadline or present a non-frivolous claim. 8 *Lewis v. Casey*, 518 U.S. 343, 349 (1996). 9 Here, plaintiff has minimally alleged the injury needed to sustain a First and Fourteenth 10 Amendment denial of access to the courts claim.

Plaintiff is proceeding pro per in his criminal 11 case and alleges that defendant Cemo confiscated evidence that he had to request again and 12 identifies a CPS report and transcript that he can no longer access. Accepting these allegations as 13 true and drawing all reasonable inferences in plaintiff's favor, the undersigned finds that 14 defendant's actions prejudiced plaintiff's ability to put on his own criminal defense.

Accordingly, 15 plaintiff's FAC states a cognizable First and Fourteenth Amendment denial of access to the courts 16 claim against defendant Cemo. 17 B. Claim II: Punishment By Way of False Disciplinary Reports 18 The undersigned construes plaintiff's second claim as alleging

defendants Eslick and 19 Cemo inflicted punishment in violation of the Fourteenth Amendment by issuing a false 20 disciplinary charge.

The false report in turn caused plaintiff to be classified as “high risk” and 21 placed on lockdown for more than 23 hours a day. ECF No. 1 at 4. 22 Courts have generally found that the issuance of a false disciplinary charge does not, in 23 and of itself, violate due process. See *Harper v. Costa*, 2009 WL 1684599, at *2-3 (E.D. Cal., 24 June 16, 2009), *aff’d*, 393 Fed.

App’x. 488 (9th Cir. 2010) (“Although the Ninth Circuit has not 25 directly addressed this issue in a published opinion, district courts throughout California... have 26 determined that a prisoner’s allegation that prison officials issued a false disciplinary charge 27 against him fails to state a cognizable claim for relief under § 1983.”); see also *Muhammad v. 28 Rubia*, 2010 WL 1260425, at *3 (N.D.

Cal., Mar. 29, 2010), *aff’d*, 453 Fed. App’x 751 (9th Cir. 1 2011) (“[A] prisoner has no constitutionally guaranteed immunity from being falsely or wrongly 2 accused of conduct which may result in the deprivation of a protected liberty interest.” (citations 3 omitted)). “These courts have reasoned that the focus of the analysis is on the process required 4 by law and have thus concluded that false accusations do not violate the due process clause of the 5 Fourteenth Amendment so long as the inmate is afforded the procedural protections required by 6 federal law at the disciplinary hearing.” *Goodwin v. Salagubang*, No. 2:18-cv-0363 JAM DMC, 7 2019 WL 2026507, at *2 (E.D.

Cal. May 8, 2019) (collecting cases); see also *Muhammad*, 2010 8 WL 12604235, at *3 (“As long as a prisoner is afforded procedural due process in the disciplinary 9 hearing, allegations of a fabricated charge fail to state a claim under § 1983”).

Accordingly, 10 defendants Eslick’s and Cemo’s allegedly false charge does not, standing alone, violate the 11 Fourteenth Amendment. 12 The undersigned next turns to whether plaintiff received required procedural protections 13 during the ensuing disciplinary hearing.

Under the Fourteenth Amendment’s Due Process 14 Clause, pretrial detainees have a right against jail conditions or restrictions that “amount to 15 punishment.” *Pierce v. Cnty. of Orange*, 526 F.3d 1190, 1205 (9th 2008) (quoting *Bell v. 16 Wolfish*, 441 U.S. 520, 535–37 (1979)). Pretrial detainees are not “free to violate jail rules with 17 impunity,” but “may be subjected to disciplinary segregation only with a due process hearing to 18 determine whether they have in fact violated any rule.” *Mitchell v. Dupnik*, 75 F.3d 517, 524 19 (9th Cir.

1996); *Shorter v. Baca*, 101 F. Supp. 3d 876, 891 (C.D. Cal. 2015) (“the Ninth Circuit 20 has held that segregated confinement of pretrial detainees, where that confinement amounts to 21 punishment, must be accompanied by a due process hearing”).

The elements of federal due process require that a pretrial detainee be permitted to present evidence and “call witnesses in his defense, when permitting him to do so will not be unduly hazardous to institutional safety and correctional concerns.”² Mitchell, 75 F.3d at 525 (citing Wolff v. McDonnell, 418 U.S. 539, 566 (1974)); see also Serrano v. Francis, 345 F.3d 1071, 1077–78 (9th Cir.

2003) (Wolff protections).² The exacting test for liberty interests articulated in Sandin v. Conner, 515 U.S. 472 (1995), which determines when these federal due process procedures are triggered for convicted prisoners, does not apply to the liberty interests of pretrial detainees. See Pierce, 526 F.3d at 1205 n.15. It includes “the rights to call witnesses, to present documentary evidence and to have a written statement by the factfinder as to the evidence relied upon and the reasons for the disciplinary action taken.”).

In the supporting facts section of his second claim, plaintiff wrote that he “never had a hearing to prove I was guilty” and his “witness didn’t get to make statements.” ECF No. 10 at 4. However, the attachments to the FAC contradict these claims. They include a “Disciplinary Review Form” showing that defendant Tinker convened a hearing on the allegedly false charges on February 16, 2025, at 1915 hours.

Id. at 10. The form also reflects that Tinker interviewed witness Hernandez at plaintiff’s request.³ Id. The court need not accept as true allegations that contradict facts contained in the complaint’s exhibits. Sprewell v. Golden State Warriors, 266 F.3d 979, 988 (9th Cir.), opinion amended on denial of reh’g, 275 F.3d 1187 (9th Cir. 2001). Thus, because plaintiff received a hearing and his witness participated, his FAC does not state a cognizable claim regarding defendants Eslick’s and Cemo’s allegedly false charge.

Plaintiff will be given leave to amend to elaborate on the alleged procedural defects in this hearing. Because plaintiff alleges defendants “fabricated violations” that formed the basis of his RVR, the undersigned will also consider whether his SAC states a cognizable falsification of evidence claim pursuant to Devereaux v. Abbey, 263 F.3d 1070 (9th Cir.

2001) (en banc) (“Devereaux”). In Devereaux, the Ninth Circuit held that “there is a clearly established constitutional due process right not to be subjected to criminal charges on the basis of false evidence that was deliberately fabricated by the government.” 263 F.3d at 1074-75. There is disagreement in this District whether Devereaux claims are cognizable in the RVR hearing context.

Compare Chappell v. Bess, No. 2:01-cv-1979 KJN P, 2012 WL 3276984, 23 at *22–23 (E.D. Cal. Aug. 9, 2012) (denying summary judgment to defendants on Devereaux claim where plaintiff alleged defendants planted the drugs that formed the basis of his RVR and criminal referral), with Hinton v. Mix, No. 1:24-cv-0960 KES BAM (PC), 2025 WL 1569053, at 3 The form also

shows that plaintiff was found guilty of major rules violations and placed on 27 “disciplinary separation” from February 22, 2025, to March 8, 2025.

Id. at 11. Plaintiff lost privileges consistent with the allegations in the FAC (e.g., only 30 minutes out of cell for 28 showering and legal calls). Id. 1 *10 (E.D. Cal. June 3, 2025) (screening out due process claim based on alleged falsified evidence 2 in RVR hearing and noting that “the Ninth Circuit has not held that such prison disciplinary 3 proceedings are sufficient for a Devereaux claim”), report and recommendation adopted, No. 4 1:24-cv-0960 KES BAM (PC), 2025 WL 1918564 (E.D.

Cal. July 11, 2025).⁴ While the Ninth 5 Circuit has not addressed this specific question, it has entertained Devereaux falsification of 6 evidence claims in other administrative contexts. See, e.g., *Costanich v. Dep’t of Soc. & Health 7 Servs.*, 627 F.3d 1101 (9th Cir. 2010) (denying summary judgment on a fabrication of evidence 8 claim against a defendant based on evidence that the defendant falsified evidence that was used in 9 an administrative proceeding, and which led to the revocation of Plaintiff’s foster care license and 10 loss of guardianship of two minor children).

Therefore, at this early stage of the case and without 11 the benefit of briefing by defendants, the undersigned will proceed to screen for a Devereaux-type 12 claim. 13 “To prevail on a § 1983 claim of deliberate fabrication, a plaintiff must prove that (1) the 14 defendant official deliberately fabricated evidence and (2) the deliberate fabrication caused the 15 plaintiff’s deprivation of liberty.” *Spencer v. Peters*, 857 F.3d 789, 798 (9th Cir.

2017) (citations 16 omitted). Here, plaintiff does not provide facts showing deliberate fabrication, he only makes the 17 conclusory allegation that Eslick and Cemo “fabricated violations in disciplinary reports.” He 18 does not state what was fabricated and why. Plaintiff’s bare-bones allegation does not plausibly 19 state a Devereaux-type claim. Plaintiff will be granted leave to amend to elaborate on the alleged 20 fabrication.

21 C. Claim III: Denial of Witnesses at Hearing 22 The undersigned construes plaintiff’s third claim as alleging Fourteenth Amendment 23 4 Judges in other districts within this Circuit have also found Devereaux inapplicable to prison 24 disciplinary proceedings. See, e.g., *Garcia v. Kernan*, No. 18-cv-2313 JLS (MSB), 2019 WL 3429175, at *9 (S.D. Cal. July 30, 2019) (holding Devereaux does not apply to “administrative 25 measures” such as “prison segregation and internal disciplinary procedures[.]”); *Strohmeyer v. 26 Belanger*, No. 3:14-cv-0661 RCJ WGC, 2021 WL 1097344, at *18 (D.

Nev. Mar. 3, 2021) (“Plaintiff has cited no authority, and the court is aware of none, extending the holding of 27 Devereaux to prison disciplinary proceedings.”), report and recommendation adopted, No. 3:14- cv-0661 RCJ WGC, 2021 WL 1687116 (D. Nev. Mar. 22, 2021), *aff’d sub nom.* *Strohmeyer v. 28 Beguefuth*, No. 21-15760, 2023 WL 3477832 (9th Cir. May 16, 2023).

1 procedural due process violations by defendants Tinker and Balderas at plaintiff's disciplinary 2 hearings. Plaintiff claims Tinker and Balderas did not interview witnesses and their reviews 3 themselves were a "sham" because he has already been classified "high risk." ECF No. 1 at 5. 4 As discussed above, pretrial detainees are entitled to a due process hearing before they are 5 subjected to disciplinary segregation and have the right to call witnesses.

See Mitchell, 75 F.3d at 6 524-25 (citing Wolff, 418 U.S. at 566). Again, the attachments pertaining to defendant Tinker's 7 hearing on February 16, 2025, undermine plaintiff's claim that Tinker did not permit plaintiff to 8 present witnesses.

The disciplinary hearing report shows that plaintiff asked Tinker to interview 9 witness Hernandez and includes a narrative of Tinker's subsequent interview with Hernandez. 10 See ECF No. 10 at 10. The court, again, need not accept as true allegations that contradict facts 11 contained in the complaint's exhibits. Sprewell, 266 F.3d at 988. Absent additional facts 12 regarding other witnesses that Tinker refused to interview, or some other procedural violation 13 related to Tinker's witness interview, plaintiff's FAC does not state a claim against Tinker.

14 However, plaintiff has adequately alleged a Fourteenth Amendment procedural due 15 process claim against defendant Balderas. Plaintiff attached documents from an entirely different 16 disciplinary hearing conducted by Balderas on February 16, 2025, 17 showing that plaintiff asked 17 Balderas to interview witnesses Straight, Oliphant, and Hernandez. ECF No. 1 at 7.

Balderas' 18 report reflects that request but does not indicate whether the witnesses were interviewed. 19 Therefore, accepting the allegations as true, plaintiff has minimally alleged that defendant 20 Balderas did not honor his request to present witnesses at this separate disciplinary hearing. 21 II. Options From Which to Choose 22 After conducting the screening required by 28 U.S.C. § 1915A(a), the court finds that 23 plaintiff has adequately stated a valid First and Fourteenth Amendment denial of access to the 24 courts claim against defendant Cemo and a valid Fourteenth Amendment procedural due process 25 claim against defendant Balderas.

However, the allegations in the FAC are not sufficient to state 26 27 5 Per the attachments, defendant Balderas conducted a hearing on disciplinary report No. 204460 at plaintiff's cell at 1100 hours. ECF No. 1 at 7-8. Defendant Tinker conducted a disciplinary 28 hearing on a separate report, No. 204462, later that same evening at 1915 hours. Id. at 10. 1 any claim for relief against defendants Eslick or Tinker.

The FAC also fails to allege a 2 Fourteenth Amendment violation regarding the allegedly false disciplinary reports. 3 It appears to the undersigned that plaintiff may be able to allege facts to fix these 4 problems.

Therefore, plaintiff has the option of filing an amended complaint. After selecting an 5 option from the two options listed below, plaintiff must return the attached Notice of Election 6 form to the

court within 21 days from the date of this order. 7 Option No. 1: The first option available to plaintiff is to proceed immediately against 8 defendant Cemo on the First and Fourteenth Amendment denial of access to the courts claim and 9 against defendant Balderas on the Fourteenth Amendment procedural due process violation.

By 10 choosing this option, plaintiff will be agreeing to voluntarily dismiss defendants Eslick and 11 Tinker. The court will then direct plaintiff to complete the paperwork necessary for the U.S. 12 Marshal service to serve defendants Cemo and Balderas. 13 Option No. 2: The second option available to plaintiff is to file an amended complaint to 14 fix the problems described above against defendants Eslick, Tinker, and Cemo (regarding the 15 false disciplinary charge claim only).

If plaintiff chooses this option, the court will set a deadline 16 in a subsequent order to give plaintiff time to file an amended complaint. 17 If plaintiff chooses to file an amended complaint, he must demonstrate how the 18 circumstances about which he complains resulted in a deprivation of his constitutional rights. 19 *Rizzo*, 423 U.S. at 370-71. Also, the complaint must specifically identify how each named 20 defendant is involved.

Arnold v. Int'l Bus. Machs. Corp., 637 F.2d 1350, 1355 (9th Cir. 1981). 21 There can be no liability under 42 U.S.C. § 1983 unless there is some affirmative link or 22 connection between a defendant's actions and the claimed deprivation. *Id.*; *Johnson*, 588 F.2d at 23 743. Furthermore, "[v]ague and conclusory allegations of official participation in civil rights 24 violations are not sufficient." *Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir.

1982) (citations 25 omitted). 26 CONCLUSION 27 In accordance with the above, IT IS HEREBY ORDERED that: 28 1. Plaintiff's request for leave to proceed in forma pauperis (ECF No. 7) is GRANTED.] 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. Plaintiff 2 || is assessed an initial partial filing fee in accordance with the provisions of 28 U.S.C. § 3 || 1915(b)(1).

All fees shall be collected and paid in accordance with this court's order to the 4 || appropriate agency filed concurrently herewith. 5 3. Plaintiff's claims against defendants Eslick and Tinker, as well as his false disciplinary 6 || charge claim against defendant Cemo, do not state claims for which relief can be granted. 7 4. Plaintiff has the option to proceed immediately on his First and Fourteenth 8 | Amendment denial of access to the courts claim against defendant Cemo and his Fourteenth 9 || Amendment procedural due process claim against defendant Balderas as set forth above, or to file 10 | an amended complaint.

11 5. Within thirty (30) days from the date of this order, plaintiff shall complete and return 12 | the attached Notice of Election form notifying the court whether he wants to proceed on the 13 || screened complaint or whether he wants to file an amended complaint. 14 6. If plaintiff does not

return the form, the court will assume that he is choosing to 15 || proceed on the FAC as screened and will recommend dismissal without prejudice of defendants 16 | Eslick, Tinker, and the false disciplinary charge claim against defendant Cemo.

17 | DATED: December 3, 2025 Link 19 SEAN C. RIORDAN 20 UNITED STATES
MAGISTRATE JUDGE 21 22 23 24 25 26 27 28 1] 1 2 3 4 5 6 7 8 UNITED STATES DISTRICT
COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 MICHAEL ALAN DEAN
HILL, No. 2:25-cv-00751 SCR P 12 Plaintiff, 13 v. NOTICE OF ELECTION 14 EL DORADO
COUNTY, et al., 15 Defendants. 16 17 Check one: 18 _____ Plaintiff wants to proceed
immediately on his First/Fourteenth Amendment denial of court 19 access claim against defendant
Cemo and his Fourteenth Amendment procedural due 20 process claim against defendant Balderas
without amending the complaint.

Plaintiff 21 understands that by choosing this option, the remaining defendants and claims will be
22 voluntarily dismissed without prejudice under to Federal Rule of Civil Procedure 41(a). 23 24
_____ Plaintiff wants time to file an amended complaint. 25 26
DATED:_____ 27 Michael Alan Dean Hill, plaintiff pro se 28