

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Sandy Holt v. Sgt. Forsyth #221, et al.

No. 2:24-cv-03256-DJC-CSK (E.D. Cal. Sept. 16, 2025) · No. 2:24-cv-03256-DJC-CSK · Decided September 16, 2025

SUMMARY

The United States District Court for the Eastern District of California screened Sandy Holt’s First Amended Complaint under 28 U.S.C. § 1915(e). The court found that the Fourth Amendment unlawful-search-and-seizure claim concerning the impoundment of Holt’s vehicle was sufficient to proceed, but dismissed the cruel-and-unusual-punishment and Fourteenth Amendment falsification-of-records claims with leave to amend. The order gives Holt thirty days either to proceed on the Fourth Amendment claim alone or to file a Second Amended Complaint.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Chi Soo Kim
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	September 16, 2025
DOCKET	2:24-cv-03256-DJC-CSK
DISPOSITION	other
PROCEDURAL POSTURE	Screening of a pro se prison-like civil rights complaint filed in forma pauperis under 28 U.S.C. § 1915(e)(2)(B). The court reviewed Plaintiff’s First Amended Complaint, permitted the Fourth Amendment unlawful-search-and-seizure claim to proceed, and dismissed the cruel-and-unusual-punishment and falsification-of-records claims with leave to amend.
STANDARD OF REVIEW	Under 28 U.S.C. § 1915(e)(2)(B), the court must dismiss an in forma pauperis action that is frivolous or malicious, fails to state a claim, or seeks monetary relief from an immune defendant. The court accepts well-pleaded factual allegations as true, construes them in the plaintiff’s favor, liberally construes pro se pleadings, and disregards conclusory allegations, unreasonable inferences, and unwarranted factual deductions.

PRECEDENTIAL VALUE	unpublished
PARTIES	Sandy Holt v. Sgt. Forsyth #221, Sacramento County Deputy Higley #473

TOPICS

section 1983 civil rights pleadings due process constitutional law

PRACTICE AREAS

civil rights constitutional law civil procedure

QUESTIONS PRESENTED

1. Whether Plaintiff's allegations plausibly stated a 42 U.S.C. § 1983 Fourth Amendment claim for unlawful search and seizure of her vehicle.
2. Whether Plaintiff adequately alleged a separate Fourteenth Amendment procedural due process claim concerning the vehicle seizure.
3. Whether Plaintiff's allegations stated an Eighth Amendment cruel-and-unusual-punishment claim.
4. Whether Plaintiff adequately alleged a Fourteenth Amendment deliberate-fabrication-of-evidence claim based on allegedly falsified official records.
5. Whether the deficient claims should be dismissed with leave to amend.

HOLDINGS

1. The First Amended Complaint sufficiently stated a Fourth Amendment unlawful-search-and-seizure claim for screening purposes because Plaintiff alleged that Defendants seized her vehicle and falsified information to justify the seizure.
2. The procedural due process claim was inadequately pleaded and was dismissed with leave to amend because Plaintiff did not clearly identify the procedural protection to which she was entitled or allege facts connecting Defendants to the asserted deprivation.
3. Plaintiff failed to state an Eighth Amendment cruel-and-unusual-punishment claim because the First Amended Complaint did not allege that she was a prisoner, arrested, or pretrial detainee at the time of the incident; the claim was dismissed with leave to amend.
4. Plaintiff failed to state a Fourteenth Amendment deliberate-fabrication-of-evidence claim because she did not allege that Defendants' alleged fabrication caused a deprivation of liberty or subjected her to criminal charges based on false evidence; the claim was dismissed with leave to amend.
5. The deficient claims were dismissed with leave to amend because a pro se litigant generally must receive notice of pleading deficiencies and an opportunity to amend unless the deficiencies cannot be cured.

KEY QUOTATIONS

“Pursuant to 28 U.S.C. § 1915(e), the court must screen every in forma pauperis proceeding, and must order dismissal of the case if it is “frivolous or malicious,” “fails to state a claim on which relief may be granted,” or “seeks monetary relief against a defendant who is immune from such relief.”” (Opinion at 1)

“To state a claim on which relief may be granted, the plaintiff must allege enough facts “to state a claim to relief that is plausible on its face.”” (Opinion at 3)

“This cause of action as pled is sufficient for screening purposes to require Defendants to respond to Plaintiff’s Fourth Amendment cause of action.” (Opinion at 4)

“The prohibition of cruel and unusual punishment under the Eighth Amendment applies only after conviction and sentencing.” (Opinion at 5)

“To state a Section 1983 claim of deliberate fabrication, a plaintiff must plead sufficient facts to allege that (1) the defendant official deliberately fabricated evidence and (2) the deliberate fabrication caused the plaintiff’s deprivation of liberty.” (Opinion at 6)

FACTUAL BACKGROUND

Plaintiff alleged that Sacramento County officers seized her 2007 Dodge Charger on December 23, 2023, while it was parked on private property. She claimed the officers acted without legal justification, ignored her statement that she would move the vehicle within the property manager's 72-hour notice period, and falsified information to justify the seizure. She also alleged that the officers failed to conduct an inventory and that one defendant had engaged in a prior allegedly unlawful towing incident involving her vehicle.

PROCEDURAL HISTORY

The court granted Plaintiff leave to proceed in forma pauperis and dismissed her original complaint with leave to amend on April 25, 2025. Plaintiff filed a First Amended Complaint on May 22, 2025. Following statutory screening, the court ordered that the Fourth Amendment claim was sufficient to proceed, dismissed the other two claims with leave to amend, and gave Plaintiff thirty days either to elect to proceed on the surviving claim or file a second amended complaint.

DISPOSITION

other

CASES CITED

- *Lopez v. Smith*, 203 F.3d 1122 (9th Cir. 2000) (en banc)
- *Neitzke v. Williams*, 490 U.S. 319 (1989)
- *Von Saher v. Norton Simon Museum of Art at Pasadena*, 592 F.3d 954 (9th Cir. 2010), cert. denied, 564 U.S. 1037 (2011)
- *Hebbe v. Pliler*, 627 F.3d 338 (9th Cir. 2010)
- *Western Mining Council v. Watt*, 643 F.2d 618 (9th Cir. 1981)
- *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007)

- *Ashcroft v. Iqbal*, 556 U.S. 662 (2009)
- *Cahill v. Liberty Mutual Insurance Co.*, 80 F.3d 336 (9th Cir. 1996)
- *Wilder v. Virginia Hospital Association*, 496 U.S. 498 (1990)
- *Albright v. Oliver*, 510 U.S. 266 (1994)
- *Florer v. Congregation Pidyon Shevuyim, N.A.*, 639 F.3d 916 (9th Cir. 2011)
- *Hansen v. Black*, 885 F.2d 642 (9th Cir. 1989)
- *Johnson v. Duffy*, 588 F.2d 740 (9th Cir. 1978)
- *Mapp v. Ohio*, 367 U.S. 643 (1961)
- *Miranda v. City of Cornelius*, 429 F.3d 858 (9th Cir. 2005)
- *Carroll v. United States*, 267 U.S. 132 (1925)
- *Brewster v. Board of Education of Lynwood Unified School District*, 149 F.3d 971 (9th Cir. 1998)
- *Lee v. City of Los Angeles*, 250 F.3d 668 (9th Cir. 2001)
- *Mendiola-Martinez v. Arpaio*, 836 F.3d 1239 (9th Cir. 2016)
- *Byrd v. Maricopa County Board of Supervisors*, 845 F.3d 919 (9th Cir. 2017)
- *Devereaux v. Abbey*, 263 F.3d 1070 (9th Cir. 2001)
- *Orcutt v. Pelletier*, 2023 WL 3735584 (9th Cir. May 31, 2023)
- *Spencer v. Peters*, 857 F.3d 789 (9th Cir. 2017)
- *McHenry v. Renne*, 84 F.3d 1172 (9th Cir. 1996)
- *Lacey v. Maricopa County*, 693 F.3d 896 (9th Cir. 2012)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
 CALIFORNIA 10 11 SANDY HOLT, Case No. 2:24-cv-03256-DJC-CSK 12 Plaintiff, 13 v.
 ORDER 14 SGT. FORSYTH #221, et al., (ECF No. 4) 15 Defendants. 16 17 Plaintiff Sandy Holt
 is proceeding in this action pro se.¹ On April 25, 2025, the 18 Court granted Plaintiff leave to
 proceed in forma pauperis (“IFP”) and dismissed her 19 complaint with leave to amend.

See 4/25/2025 Order (ECF No. 3). On May 22, 2025, 20 Plaintiff filed the operative First
 Amended Complaint (“FAC”). FAC (ECF No. 4). 21 I. SCREENING REQUIREMENT 22 The
 determination that a plaintiff may proceed without payment of fees does not 23 complete the
 inquiry. Pursuant to 28 U.S.C. § 1915(e), the court must screen every in 24 forma pauperis
 proceeding, and must order dismissal of the case if it is “frivolous or 25 malicious,” “fails to state
 a claim on which relief may be granted,” or “seeks monetary 26 relief against a defendant who is
 immune from such relief.” 28 U.S.C. § 1915(e)(2)(B); 27 1 This matter proceeds before the
 undersigned pursuant to 28 U.S.C. § 636, Fed.

R. 28 Civ. P. 72, and Local Rule 302(c). 1 *Lopez v. Smith*, 203 F.3d 1122, 1126-27 (2000) (en
 banc). A claim is legally frivolous 2 when it lacks an arguable basis either in law or in fact.
Neitzke v. Williams, 490 U.S. 319, 3 325 (1989).

In reviewing a complaint under this standard, the court accepts as true the 4 factual allegations contained in the complaint, unless they are clearly baseless or 5 fanciful, and construes those allegations in the light most favorable to the plaintiff. See 6 *Neitzke*, 490 U.S. at 327; *Von Saher v. Norton Simon Museum of Art at Pasadena*, 592 7 F.3d 954, 960 (9th Cir.

2010), cert. denied, 564 U.S. 1037 (2011). 8 Pleadings by self-represented litigants are liberally construed. *Hebbe v. Pliler*, 627 9 F.3d 338, 342 & n.7 (9th Cir. 2010) (liberal construction appropriate even post-*Iqbal*). 10 However, the court need not accept as true conclusory allegations, unreasonable 11 inferences, or unwarranted deductions of fact. *Western Mining Council v. Watt*, 643 F.2d 12 618, 624 (9th Cir.

1981). A formulaic recitation of the elements of a cause of action does 13 not suffice to state a claim. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-57 (2007); 14 *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). 15 To state a claim on which relief may be granted, the plaintiff must allege enough 16 facts “to state a claim to relief that is plausible on its face.” *Twombly*, 550 U.S. at 570. “A 17 claim has facial plausibility when the plaintiff pleads factual content that allows the court 18 to draw the reasonable inference that the defendant is liable for the misconduct alleged.” 19 *Iqbal*, 556 U.S. at 678.

A pro se litigant is entitled to notice of the deficiencies in the 20 complaint and an opportunity to amend unless the complaint’s deficiencies could not be 21 cured by amendment. See *Lopez*, 203 F.3d at 1130-31; *Cahill v. Liberty Mut. Ins. Co.*, 80 22 F.3d 336, 339 (9th Cir. 1996). 23 II. THE FIRST AMENDED COMPLAINT 24 Plaintiff brings this Section 1983 action against Defendants Sacramento County 25 Sergeant Forsyth #221 and Sacramento County Deputy Higley #473.

FAC at 1-2. The 26 FAC alleges the following claims pursuant to 42 U.S.C. § 1983: (1) violation of the 27 Fourth and Fourteenth Amendments for unlawful search and seizure and deprivation of 28 personal property without a warrant or due process; (2) violation of the Eighth and 1 Fourteenth Amendments for cruel and unusual punishment, emotional distress, undue 2 hardships, abuse of power under color of law; and (3) violation of the Fourteenth 3 Amendment for falsification of official records.

FAC at 4-5. Plaintiff alleges on December 4 23, 2023, at 12499 Folsom Blvd., Rancho Cordova, California, Defendants took 5 possession of her 2007 Dodge Charger SRT8 without “legal justification” and without 6 “due process.” FAC ¶ 6. Plaintiff alleges prior to the seizure of her vehicle, Defendants 7 engaged in premediated conduct by filling out a “notice of stored vehicle” prior to their 8 arrival.

Id. ¶ 7. Plaintiff alleges when Defendants arrived, she had informed Defendants 9 that the property manager had issued her a 72-hour notice to move her vehicle or risk 10 being towed and that only 24 hours had passed. *Id.* ¶ 9. When Plaintiff stated she would 11 move the vehicle herself, she was

told the vehicle was in possession. Id. Plaintiff alleges 12 Defendants falsified an official report and fabricated reasons to justify the seizure of her 13 vehicle when the vehicle was parked on private property and failed to provide prior 14 notice to Plaintiff that her vehicle would be towed.

Id. ¶¶ 10, 16. Plaintiff alleges she did 15 not consent to the seizure of her vehicle and that her vehicle was neither obstructing 16 traffic nor posing a public safety hazard. Id. ¶¶ 12-13. Plaintiff also alleges Defendants 17 did not do an inventory when impounding her vehicle as required under police 18 departmental policy. Id. ¶ 14. Plaintiff alleges Defendants' actions were willful and 19 without legal basis and constitute premeditated auto theft.

Id. ¶ 15. Plaintiff further 20 alleges Defendant Forsyth has a pattern of constitutional and departmental violations as 21 to Plaintiff's vehicle based on a prior encounter in July 10, 2023 where the towing of 22 Plaintiff's vehicle was found to be illegal. Id. ¶ 17. Plaintiff seeks \$6 million in damages 23 and other forms of relief. Id. ¶¶ 25-29. 24 III. DISCUSSION 25 A. Federal Rule of Civil Procedure 8 26 42 U.S.C. § 1983 "provides a cause of action for the deprivation of any rights, 27 privileges, or immunities secured by the Constitution and laws of the United States." 28 *Wilder v. Virginia Hosp.*

Ass'n, 496 U.S. 498, 508 (1990) (internal quotation marks 1 omitted). "Section 1983 is not itself a source of substantive rights but merely provides a 2 method for vindicating federal rights elsewhere conferred." *Albright v. Oliver*, 510 U.S. 3 266, 271 (1994) (citation and internal quotation marks omitted).

To state a cognizable 4 § 1983 claim, a plaintiff must allege the violation of a right protected by the Constitution 5 and laws of the United States, and that the alleged deprivation was committed by a 6 person who acted under color of state law. 42 U.S.C. § 1983; see also *Florer v. 7 Congregation Pidyon Shevuyim, N.A.*, 639 F.3d 916, 921 (9th Cir. 2011). An individual 8 defendant is not liable on a civil rights claim unless the facts establish the defendant's 9 personal involvement in the constitutional deprivation or a causal connection between 10 the defendant's wrongful conduct and the alleged constitutional deprivation.

See *Hansen 11 v. Black*, 885 F.2d 642, 645 (9th Cir. 1989); *Johnson v. Duffy*, 588 F.2d 740, 743-44 (9th 12 Cir. 1978). That is, plaintiff may not sue any official on the theory that the official is liable 13 for the unconstitutional conduct of his or her subordinates. *Iqbal*, 556 U.S. at 679. 14 Plaintiff raises the following claims pursuant to 42 U.S.C. § 1983: (1) violation of 15 the Fourth and Fourteenth Amendments for unlawful search and seizure and deprivation 16 of personal property without a warrant or due process; (2) violation of the Eighth and 17 Fourteenth Amendments for cruel and unusual punishment, emotional distress, undue 18 hardships, abuse of power under color of law; and (3) violation of the Fourteenth 19 Amendment for falsification of official records.

FAC at 4-5. The Court addresses each of 20 the claims below. 21 1. First Cause of Action: Unlawful Search and Seizure 22 First, Plaintiff brings a Fourth and Fourteenth Amendment claim pursuant to 23 42 U.S.C. § 1983 for the unlawful search and seizure of her vehicle. FAC at 4.

The 24 Fourth Amendment, which applies to the states through the Fourteenth Amendment, 25 protects against unreasonable searches and seizures by law enforcement officers. *Mapp* 26 v. Ohio, 367 U.S. 643, 655 (1961). “The impoundment of an automobile is a seizure 27 within the meaning of the Fourth Amendment.” *Miranda v. City of Cornelius*, 429 F.3d 28 858, 862 (9th Cir.

2005). The Fourth Amendment does not prohibit all search and 1 seizure. “[I]f the search and seizure without a warrant are made upon probable cause, 2 that is, upon a belief, reasonably arising out of circumstances known to the seizing 3 officer, that an automobile or other vehicle contains that which by law is subject to 4 seizure and destruction, the search and seizure are valid.” *Carroll v. United States*, 267 5 U.S. 132, 149 (1925).

Plaintiff alleges Defendants justified the seizure of her vehicle by 6 falsifying information. See FAC at ¶¶10, 16. This cause of action as pled is sufficient for 7 screening purposes to require Defendants to respond to Plaintiff’s Fourth Amendment 8 cause of action. 9 However, it is not clear whether Plaintiff is seeking to raise a separate cause of 10 action for violation of due process under the Fourteenth Amendment relating to the 11 seizure of her vehicle. “A procedural due process claim has two distinct elements: (1) a 12 deprivation of a constitutionally protected liberty or property interest, and (2) a denial of 13 adequate procedural protections.” *Brewster v. Bd. of Educ. of Lynwood Unified Sch.*

14 Dist., 149 F.3d 971, 982 (9th Cir. 1998). Plaintiff does not clearly allege a separate 15 cause of action and what procedural protection she believes she was entitled to but 16 denied. To the extent Plaintiff is seeking to raise a separate cause of action for a due 17 process violation under the Fourteenth Amendment, this cause of action is dismissed 18 with leave to amend.

Plaintiff will be provided an opportunity to amend her First 19 Amended Complaint, if she can, alleging what procedural protection she believes she 20 was entitled to and facts demonstrating Defendants’ connection to or involvement in the 21 alleged violations. 22 2.

Second Cause of Action: Cruel and Unusual Punishment 23 Second, Plaintiff brings an Eighth and Fourteenth Amendment claim pursuant to 24 42 U.S.C. § 1983 for cruel and unusual punishment asserting that Plaintiff “has had to 25 walk everywhere she goes or take public transportation” due to “the ripple effect of 26 Defendant’s decisions.” FAC at 5.

The Eighth Amendment prohibits cruel and unusual 27 punishment. U.S. Const. amend. VIII. The prohibition of cruel and unusual punishment 28 under the Eighth Amendment applies only after conviction and sentencing. *Lee v. City of 1 Los Angeles*, 250 F.3d 668, 686 (9th Cir. 2001). “Eighth Amendment protections apply 2 only once a prisoner has been convicted of a crime, while

pretrial detainees are entitled to the potentially more expansive protections of the Due Process Clause of the Fourteenth Amendment.” *Mendiola-Martinez v. Arpaio*, 836 F.3d 1239, 1246 n.5 (9th Cir.

5 2016); see also *Byrd v. Maricopa Cnty. Bd. of Supervisors*, 845 F.3d 919, 924 n.2 (9th Cir. 2017) (“The Fourteenth Amendment, and not the Eighth Amendment, governs cruel and unusual punishment claims of pretrial detainees.”).

The First Amended Complaint does not make any allegations that Plaintiff was a prisoner, arrested, or that she was a pretrial detainee. See generally FAC. As a result, Plaintiff cannot bring a claim for cruel and unusual punishment based on her currently pled allegations. Plaintiff will be provided an opportunity to amend her First Amended Complaint, if she can, alleging specific facts regarding whether Plaintiff was a prisoner or a pretrial detainee at the time of the incident.

3. Third Cause of Action: Falsification of Records Third, Plaintiff brings a Fourteenth Amendment claim pursuant to 42 U.S.C. § 1983 based on Defendants’ alleged submission of “false reports in order to justify decisions made to steal plaintiff’s vehicle.” FAC at 5. There is a “clearly established due process right not to be subjected to criminal charges on the basis of false evidence that was deliberately fabricated by the government.” *Devereaux v. Abbey*, 263 F.3d 1070, 1074-75 (9th Cir.

2001). To state a Section 1983 claim of deliberate fabrication, a plaintiff must plead sufficient facts to allege that (1) the defendant official deliberately fabricated evidence and (2) the deliberate fabrication caused the plaintiff’s deprivation of liberty. *Orcutt v. Pelletier*, 2023 WL 3735584, at *1 (9th Cir. May 31, 2023) (quoting *Spencer v. Peters*, 857 F.3d 789, 798 (9th Cir.

2017)). Here, Plaintiff’s allegations do not sufficiently allege that Defendants caused her deprivation of liberty or that Plaintiff was subjected to criminal charges based on falsified records. See generally FAC.

As a result, Plaintiff cannot bring a claim for deliberate fabrication of reports based on her currently pled allegations. Plaintiff will be provided an opportunity to amend her First Amended Complaint, if she can, but must allege specific facts demonstrating, if any, that Defendants deliberately fabricated evidence that caused Plaintiff’s deprivation of liberty.

B. Plaintiff’s Options Plaintiff may proceed forthwith to serve Defendants Sacramento County Sergeant Forsyth #221 and Sacramento County Deputy Higley #473 and pursue her Fourth Amendment claim for unlawful search and seizure (First Cause of Action) only, or she may delay serving any Defendant and attempt again to state cognizable claims against Defendants Forsyth and Higley.

If Plaintiff elects to proceed forthwith against Defendants 9 Forsyth and Higley as to her Fourth Amendment claim for unlawful search and seizure 10 (First Cause of Action), then within thirty days Plaintiff must so elect on the appended 11 form.

In this event the Court will construe Plaintiff's election as consent to dismissal of 12 her claim for cruel and unusual punishment (Second Cause of Action) and Fourteenth 13 Amendment claim for falsification of records (Third Cause of Action) against Defendants 14 without prejudice.

Under this option, Plaintiff does not need to file a Second Amended 15 Complaint. 16 Or, Plaintiff may delay serving any Defendant and attempt again to cure the 17 deficiencies identified above. If Plaintiff elects to attempt to amend her complaint to cure 18 the deficiencies identified above, she has thirty days to do so. 19 If Plaintiff elects to file an amended complaint, this new pleading shall allege facts 20 establishing the existence of federal jurisdiction and must contain a short and plain 21 statement of Plaintiff's claim.

The allegations of the complaint must be set forth in 22 sequentially numbered paragraphs, with each paragraph number being one greater than 23 the one before, each paragraph having its own number, and no paragraph number being 24 repeated anywhere in the complaint. Each paragraph should be limited "to a single set of 25 circumstances" where possible. See Fed.

R. Civ. P. 10(b). Forms are available to help 26 plaintiffs organize their complaint in the proper way. They are available at the Clerk's 27 Office, 501 I Street, 4th Floor (Rm. 4-200), Sacramento, CA 95814, or online at 28 www.uscourts.gov/forms/pro-se-forms. 1 The amended complaint must not require the Court and the defendants to guess 2 at what is being alleged against whom.

See *McHenry v. Renne*, 84 F.3d 1172, 1177 (9th Cir. 1996) (affirming dismissal of a complaint where the district court was "literally 4 guessing as to what facts support the legal claims being asserted against certain 5 defendants").

The amended complaint must not require the Court to spend its time 6 "preparing the 'short and plain statement' which Rule 8 obligated plaintiffs to submit." Id. 7 at 1180. The amended complaint must not require the Court and defendants to prepare 8 lengthy outlines "to determine who is being sued for what." Id. at 1179. 9 Plaintiff is informed that the court cannot refer to a prior complaint or other filing in 10 order to make the amended complaint complete.

The amended complaint should be 11 titled "Second Amended Complaint." Local Rule 220 requires that an amended complaint 12 be complete in itself without reference to any prior pleading. As a general rule, an 13 amended complaint supersedes prior complaint(s), and once the amended complaint is 14 filed and served, any previous complaint no longer serves any function in the case.

15 Lacey v. Maricopa Cnty., 693 F.3d 896, 927 (9th Cir. 2012). 16 IV. CONCLUSION 17 Accordingly, IT IS HEREBY ORDERED that: 18 1. Plaintiff's Second Cause of Action (Cruel and Unusual Punishment) and Third 19 Cause of Action (Fourteenth Amendment Falsification of Records) against Defendants 20 Sacramento County Sergeant Forsyth #221 and Sacramento County Deputy Higley #473 21 are dismissed with leave to amend.

Within thirty days of service of this order, Plaintiff 22 may amend her complaint to attempt to state cognizable claims against these 23 defendants. Plaintiff is not obligated to amend her complaint. 24 2. The allegations in the First Amended Complaint are sufficient at least to state a 25 Fourth Amendment claim for unlawful search and seizure (First Cause of Action) against 26 Defendants Sacramento County Sergeant Forsyth #221 and Sacramento County Deputy 27 Higley #473.

See 28 U.S.C. § 1915A. If Plaintiff chooses to proceed solely as to this 28 claim, Plaintiff shall so indicate on the attached form and return it to the Court within 1 | thirty days from the date of this order. In this event, the Court will construe Plaintiff's 2 || election to proceed forthwith as consent to an order dismissing the defective claims 3 | without prejudice.

4 3. Failure to comply with this order will result in a recommendation that this action 5 | be dismissed. 6 7 | Dated: September 16, 2025 C □ □ \$ \U 8 CHI S00 KIM 9 UNITED STATES MAGISTRATE JUDGE 10 11 || 4, noit2356.24 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 FOR THE EASTERN DISTRICT OF CALIFORNIA 9 10 SANDY HOLT, No. 2:24-cv-03256-DJC-CSK 11 Plaintiff, 12 v. NOTICE OF ELECTION 13 SGT.

FORSYTH #221, et al., 14 Defendants. 15 16 17 Plaintiff elects to proceed as follows: 18 _____ Plaintiff opts to proceed with her Fourth Amendment claim for 19 unlawful search and seizure (First Cause of Action) against Defendants Sacramento County Sergeant Forsyth #221 and 20 Sacramento County Deputy Higley #473.

Under this option, Plaintiff consents to dismiss her Cruel and Unusual Punishment (Second 21 Cause of Action) and Fourteenth Amendment Falsification of Records (Third Cause of Action) claims against Defendants 22 Sacramento County Sergeant Forsyth #221 and Sacramento County 23 Deputy Higley #473 without prejudice. OR 24 _____ Plaintiff opts to file a second amended complaint and delay service 25 of process.

26 DATED: 27 _____ Plaintiff 28