

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Richard Bernard Gray v. Johnathan Martin, et al.

Gray v. Martin · No. 1:25-cv-00594-SAB · Decided October 8, 2025

SUMMARY

The United States District Court for the Eastern District of California screens Richard Bernard Gray’s second amended complaint under 28 U.S.C. § 1915(e)(2). The court concludes that the complaint fails to state a cognizable federal claim, including under the Fourth Amendment and 42 U.S.C. § 1983, and that the cited criminal statutes do not provide suitable private causes of action. The court grants final leave to file a third amended complaint within thirty days and limits the filing to twenty-five pages.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Stanley A. Boone
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	October 8, 2025
DOCKET	1:25-cv-00594-SAB
DISPOSITION	other
PROCEDURAL POSTURE	Sua sponte screening of a second amended complaint filed by a pro se plaintiff proceeding in forma pauperis under 28 U.S.C. § 1915(e)(2).
STANDARD OF REVIEW	Under 28 U.S.C. § 1915(e)(2), the court must dismiss an in forma pauperis action that is frivolous, malicious, or fails to state a claim. Failure to state a claim is evaluated under the pleading standard of Federal Rule of Civil Procedure 8(a), including facial plausibility under <i>Ashcroft v. Iqbal</i> and <i>Bell Atlantic Corp. v. Twombly</i> . The court also must raise subject-matter jurisdiction sua sponte when it appears to be lacking.
PRECEDENTIAL VALUE	Unpublished district court screening order; nonprecedential
PARTIES	Richard Bernard Gray v. Johnathan Martin, Joanne Martin, Mary Gonzalez, Mike, Ruvya Kahr, Roxanne Miranda, Ray

TOPICS

subject matter jurisdiction

pleadings

civil procedure

section 1983

constitutional law

PRACTICE AREAS

civil procedure

civil rights

constitutional law

federal jurisdiction

QUESTIONS PRESENTED

1. Whether the second amended complaint stated a cognizable federal claim sufficient to establish federal-question jurisdiction.
2. Whether the allegations stated a Fourth Amendment privacy claim under 42 U.S.C. § 1983.
3. Whether the cited federal criminal and research-security statutes provided a private right of action.
4. Whether Gray should receive leave to amend again to cure the identified pleading deficiencies.

HOLDINGS

1. The second amended complaint failed to state a cognizable federal claim and therefore did not establish federal-question subject-matter jurisdiction.
2. Gray failed to state a Fourth Amendment claim because he did not allege that any defendant was a state actor or that any defendant conducted an unlawful search or seizure.
3. The cited criminal statutes and 42 U.S.C. § 18912 did not appear to provide a private right of action and therefore could not serve as bases for Gray's civil claims.
4. The court granted Gray final leave to file a third amended complaint within thirty days to attempt to cure the identified deficiencies.

KEY QUOTATIONS

“Federal courts are presumptively without jurisdiction over civil cases and the burden of establishing the contrary rests upon the party asserting jurisdiction.” (at 3)

“Significantly, Plaintiff has provided no allegations regarding a state actor.” (at 5)

“Because Plaintiff has not alleged facts that implicate a federal cause of action, the Court finds that Plaintiff has not met his burden of demonstrating that this Court has subject-matter jurisdiction over his case.” (at 7)

FACTUAL BACKGROUND

Gray alleged that the defendants harassed and surveilled him, including through drones and cameras, entered his home, interfered with his communications and financial accounts, committed fraud, damaged or stole property, and defamed him. He invoked federal-question jurisdiction and cited 42 U.S.C. § 1983, the Fourth Amendment, several criminal statutes, and a federal research-security statute. The court concluded that the allegations primarily described state-law privacy and fraud claims and did not identify a state actor or an unlawful search supporting a Fourth Amendment claim.

PROCEDURAL HISTORY

Gray filed an in forma pauperis civil complaint asserting claims against multiple defendants. The court granted in forma pauperis status, screened the original complaint and found it failed to state a cognizable claim, and then found the first amended complaint deficient as well. In this order, the court screened the second amended complaint, found no cognizable federal claim or demonstrated subject-matter jurisdiction, and granted final leave to file a third amended complaint within thirty days.

DISPOSITION

other

CASES CITED

- Ashcroft v. Iqbal, 556 U.S. 662, 678-79 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007)
- Moss v. U.S. Secret Service, 572 F.3d 962, 969 (9th Cir. 2009)
- Augustine v. United States, 704 F.2d 1074, 1077 (9th Cir. 1983)
- Cato v. United States, 70 F.3d 1103, 1106 (9th Cir. 1995)
- Kokkonen v. Guardian Life Insurance Co. of America, 511 U.S. 375, 377 (1994)
- Hill v. National Collegiate Athletic Association, 7 Cal. 4th 1, 24, 865 P.2d 633 (1994)
- Lazar v. Superior Court, 12 Cal. 4th 631, 638, 909 P.2d 981 (1996)
- West v. Atkins, 487 U.S. 42, 48 (1988)
- Wolf v. People of the State of Colorado, 338 U.S. 25, 27-28 (1949)
- Carpenter v. United States, Carpenter v. United States, 585 U.S. 296, 303 (2018)
- Lopez v. Smith, 203 F.3d 1122, 1127 (9th Cir. 2000)
- Ramirez v. County of San Bernardino, 806 F.3d 1002, 1008 (9th Cir. 2015)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 10 EASTERN DISTRICT OF
CALIFORNIA 11 RICHARD BERNARD GRAY, Case No. 1:25-cv-00594-SAB 12 Plaintiff,
ORDER SCREENING COMPLAINT AND 13 GRANTING FINAL LEAVE TO FILE v. THIRD
AMENDED COMPLAINT 14 JOHNATHAN MARTIN, et al., (ECF No. 7) 15 Defendants.
THIRTY-DAY DEADLINE 16 17 On May 20, 2025, Plaintiff Richard Bernard Gray, who is
proceeding pro se and in forma 18 pauperis, filed a complaint against Johnathan Martin, Joanne
Martin, Mary Gonzalez, “Mike,” 19 Ruvya Kahr, Roxanne Miranda, and “Ray.” (ECF No. 1.)

On May 21, 2025, the Court granted 20 Plaintiff’s application to proceed in forma pauperis and on
June 6, 2025, the Court screened the 21 complaint and found that it failed to state a cognizable
claim. (ECF Nos. 3, 4.) Plaintiff timely 22 filed an amended complaint (ECF No. 5), which the
Court determined also did not state a claim. 23 (ECF No. 6.)

The Court gave Plaintiff leave to file a second amended complaint, which the Court 24 screens presently. (Id.) 25 I. 26 SCREENING REQUIREMENT 27 The in forma pauperis statute provides that a court shall dismiss a case if, inter alia, the complaint is “frivolous or malicious,” or “fails to state a claim on which relief may be granted.” 1 28 U.S.C. § 1915(e)(2).

In determining whether a complaint fails to state a claim, a court uses the 2 same pleading standard used under Federal Rule of Civil Procedure 8(a). A complaint need only 3 contain “a short and plain statement of the claim showing that the pleader is entitled to relief...” 4 Fed. R. Civ. P. 8(a)(2). Detailed factual allegations are not required, but “[t]hreadbare recitals of 5 the elements of a cause of action, supported by mere conclusory statements, do not suffice.” 6 *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009), citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 7 555 (2007).

8 To survive screening, a plaintiff’s claims must be facially plausible, which requires 9 sufficient factual detail to allow the Court to reasonably infer that each named defendant is liable 10 for the misconduct alleged. *Iqbal*, 556 U.S. at 678-79; *Moss v. U.S. Secret Serv.*, 572 F.3d 962, 11 969 (9th Cir. 2009).

The “sheer possibility that a defendant has acted unlawfully” is not sufficient, 12 and “facts that are ‘merely consistent with’ a defendant’s liability” falls short of satisfying the 13 plausibility standard. *Iqbal*, 556 U.S. at 678; *Moss*, 572 F.3d at 969. 14 Moreover, federal courts are under a duty to raise and decide issues of subject matter 15 jurisdiction sua sponte at any time it appears subject matter jurisdiction may be lacking.

Fed. R. 16 Civ. P. 12; *Augustine v. United States*, 704 F.2d 1074, 1077 (9th Cir. 1983). If the Court 17 determines that subject matter jurisdiction is lacking, the Court must dismiss the case. *Id.*; Fed. R. 18 Civ. P. 12(h)(3). 19 Leave to amend may be granted to the extent that the deficiencies of the complaint can be 20 cured by amendment. *Cato v. U.S.*, 70 F.3d 1103, 1106 (9th Cir.

1995). 21 II. 22 COMPLAINT ALLEGATIONS 23 The Court accepts Plaintiff’s allegations in his complaint as true for the purpose of this sua 24 sponte screening requirement under 28 U.S.C. § 1915. 25 In his civil complaint form, Plaintiff lists the basis of subject-matter jurisdiction as federal 26 question jurisdiction and lists the following statutes: 42 U.S.C. § 1983; 18 U.S.C. § 1801 – video 27 voyeurism prevention act of 2004; [42] U.S.C. § 18912; Sections, 5, 7, & 21 of the California 1 Plaintiff alleges “daily harassment.

Watched & followed by drones. Breaking & entering into my 2 home. Deed fraud. Trying to have me deemed crazy. Missing & destroying my property. 3 \$800,000 for six years of mental distress.” (Id. at p. 6) (sic). Specifically, for damages Plaintiff 4 lists: “vandalism to my truck \$9,800; stucco damage to the surface wall of my home \$15,000; 5 stealing money from bank account and bank checks \$68,000; stole \$43,000 when I was in prison.

6 (Id. at p. 7.) 7 Attached to the complaint, Plaintiff has included a letter wherein he gives more details to 8 his claims, which the Court incorporates. *Davis v. HSBC Bank Nev., N.A.*, 691 F.3d 1152, 1160 9 (9th Cir. 2012). Plaintiff begins by stating that the defendants discussed are in cahoots based on 10 the fact that Plaintiff has “two prior strikes from a case back in 1999.

And because I’m black, 11 retired, and own my own home.” (Id. at p. 8.) Plaintiff alleges that the defendants have access to 12 his bank account, his SSA, and Cash App account. (Id.) The defendants can also “monitor who I 13 call, text, and have some type of jamming device where they control who I can call or call me.” 14 (Id.) Plaintiff states that he has surveillance audio and video footage evidence.

(Id.) Plaintiff then 15 asserts that “But still more importantly the main reason is because of the lawsuit against [Fresno 16 Police Department] as of result of their actions of continued hate crimes and lies against me 17 without anyone being reprimanded.” (Id.) Plaintiff alleges that “everyone” hangs out at the home 18 of Johnathan Martin and Joanne Martin and consistently fly drones that monitor Plaintiff.

(Id.) 19 Plaintiff also alleges that “[t]hey have cameras inside my house and frequently disturb me with 20 intrusive conversations about my activities, which is causing [sic] to me.” (Id.) 21 Plaintiff then individually lists the remaining defendants, which separate allegations for 22 each. Plaintiff alleges that Roxanne Miranda asked Plaintiff about sensitive information, including 23 about Plaintiff’s sealed military records.

(Id. at p. 8.) Miranda logged into Plaintiff’s Keystone 24 account and asked Plaintiff how much his precious metals investment was worth. (Id.) Miranda 25 worked for the IRS and know how to access and investigate private affairs. (Id.) 26 Next, Plaintiff discusses Raavy Kaur, one of the individuals who was part of a scheme to 27 steal the deed to Plaintiff’s home by transferring the home into someone else’s name.

(Id. at p. 9.) 1 company. (Id.) “Unfortunately, [the deed] ran into the problem of switching ownership because 2 of my late wife and I had placed our home under a Revokable Trust under her name.” (Id.) 3 Plaintiff asserts that Kaur participated in daily harassment. (Id.) 4 For Joanne Martin, Plaintiff alleges that she defamed his character by teaching others that 5 Plaintiff is crazy, “hallucinating, and a drug addict whenever they would randomly call 911 on me 6 saying I was carrying firearms and weapons.” (Id.)

Plaintiff states that Joanne spoke to Plaintiff 7 “as if she was a Federal Judge quite a few times.” (Id.) Plaintiff alleges that Joanne gave bottles 8 of gabapentin to the group members and that this was supposed to be administered to Plaintiff, 9 “and not knowing what they may contain I looked under pill identifier “G 21” not identifiable, and 10 so I kept the bottle of gabapentin to take into evidence.” (Id.)

Plaintiff states that Joanne, using 11 her nursing license, called the VA hospital when he had been taken there two time to the “PAC” 12 unit. (Id.) 13 Plaintiff alleges that Sharam Bahrami, MD, asks for Plaintiff’s urinalysis test results “when 14 she was not on the clock at Fresno County Jail.” (Id.) 15 For “Ray,” Plaintiff alleges that he “was always calling me when I called FPD asking to 16 speak with a [Seargent] when I was reporting a crime after I would hang up, he would call about 17 30 mins.

To a hour later impersonating to be an Federal Agent telling me these are not crimes, do 18 not call unless I have real evidence or I’ll be arrested. Always same voice just different last 19 names.” (Id. at p. 10.) (sic). 20 Next, Plaintiff discusses Johnathan Martin, who Plaintiff states is an “evil, and hate filled 21 man with serious issues. He will lie to you and act like other people impersonate the federal law 22 enforcement agency makes false implications, knows how to commit fraud and debit and credit 23 cards, bank accounts, knows how to control who a person can call or receive calls from, invasion 24 of privacy and voyeurism with drone, an dhas the knowledge to link other residence to your PG&E 25 energy bill.” (Id.)

Plaintiff alleges Johnathan “is addicted to fentanyl and his fraud activity is how 26 he supports his addiction and conveniences. he will harass and prove you then call 911 and act 27 scared weak and fearing for his life but he’s evil mean controlling abusive.” (Id.) (sic) 1 Regarding Mary Gonzalez, Plaintiff states “invasion of privacy voyeurism and defamation 2 of character by claiming to others that I’m addicted to crack cocaine, crystal meth.” (Id. at p. 11.)

3 Finally, Plaintiff discusses “Mike,” who is “the one who knows and is the brains of all 4 technology tapping into my phones and computer, burned my phones 3ea. Breaking and entering 5 into my home to steal evidence, install camara in my home invasion of privacy, tapping into my 6 surveillance system. (Id.) 7 Plaintiff closes with a handwritten statement: “I am tired of hearing there’s no way he can 8 prove this By all of the ...” (Id.)

The page cuts off. 9 III. 10 DISCUSSION 11 While Plaintiff has included more information in his second amended complaint, including 12 one potential cause of action, it does not appear that Plaintiff has alleged a federal cause of action. 13 Federal courts are courts of limited jurisdiction. See, e.g., *Kokkonen v. Guardian Life Ins. 14 Co. of Am.*, 511 U.S. 375, 377 (1994).

Federal courts can adjudicate only cases that the 15 Constitution or Congress authorize them to adjudicate: those cases involving diversity of 16 citizenship (where the parties are from diverse states), or a federal question, or those cases to 17 which the United States is a party. See *id.* Federal courts are presumptively without jurisdiction 18 over civil cases and the burden of establishing the contrary rests upon the party asserting 19 jurisdiction.

Id. at 377. 20 From the second amended complaint, it appears that the only basis for subject-matter 21 jurisdiction is federal question jurisdiction, which in turn requires Plaintiff to identify a cause

of 22 action that implicates the federal constitution, treaties, statutes, or other federal law.

However, as 23 discussed in the Court's previous screening order, (ECF No. 6), the majority of Plaintiff's 24 allegations center around invasion of privacy and fraud, both of which are appeared to be state law 25 claims and cannot form the basis for federal question jurisdiction. See *Hill v. National Collegiate 26 Athletic Assn.*, 7 Cal. 4th 1, 24, 865 P.2d 633 (Cal.

1994) (discussing four theories of liability for 27 invasion of privacy tort); *Lazar v. Superior Court*, 12 Cal.4th 631, 638, 909 P.2d 981 (Cal. 1996) 1 Here, Plaintiff now relies on the Fourth Amendment brought through 42 U.S.C. § 1983. 2 For Plaintiffs, benefit, the Court will give Plaintiff the legal standard for a Fourth Amendment 3 privacy right violation and explain how his current pleading is deficient.

4 "To state a claim under § 1983, a plaintiff must allege the violation of a right secured by 5 the Constitution and laws of the United States, and must show that the alleged deprivation was 6 committed by a person acting under color of state law." *West v. Atkins*, 487 U.S. 42, 48 (1988). 7 The Fourth Amendment protects "[t]he right of the people to be secure in their persons, houses, 8 papers, and effects, against unreasonable searches and seizures." U.S. Const. amend.

IV. As 9 relevant here, under this doctrine, only a government actor may be held liable for an alleged 10 privacy invasion, not a private actor. *Id.*; *Wolf v. People of the State of Colo.*, 338 U.S. 25, 27-28 11 (1949) (incorporating Fourth Amendment through the Fourteenth Amendment). Indeed, the "basic 12 purpose of this Amendment... is to safeguard the privacy and security of individuals against 13 arbitrary invasions by governmental officials." *Carpenter v. United States*, 585 U.S. 296, 303 14 (2018) (emphasis added) (internal quotation marks and citations omitted).

Furthermore, because 15 "the Fourth Amendment protects people, not places," when an individual "seeks to preserve 16 something as private, and his expectation of privacy is one that society is prepared to recognize as 17 reasonable." *Id.* The Court observes that generally this type of claim results following an 18 unlawful search by a governmental official, assuming no exception applies.

19 Significantly, Plaintiff has provided no allegations regarding a state actor. Though there 20 are allegations that "Ray" called Plaintiff after Plaintiff called the Fresno Police Department, there 21 are no allegations that Ray was a governmental official or that Ray had anything to do with an 22 unlawful search.

For these reasons, Plaintiff has failed to state a claim under the Fourth 23 Amendment. 24 Regarding, 18 U.S.C. § 1801, the Court observes that this is a criminal statute and does not 25 appear to provide a private right of action.

Thus, § 1801 is not an appropriate basis for a claim in a 26 civil lawsuit. Similarly, 18 U.S.C. § 1347 is a criminal statute pertaining to healthcare fraud and 27 does not appear to provide for a

private right of action.

Therefore, § 1347 too is not an appropriate 1 Finally, 42 U.S.C. § 18912 concerns federal research security and does not appear to 2 provide a private right of action or to be relevant to any of the allegations. Again, this statute 3 cannot not form the basis of a civil claim. 4 Because Plaintiff has not alleged facts that implicate a federal cause of action, the Court 5 finds that Plaintiff has not met his burden of demonstrating that this Court has subject-matter 6 jurisdiction over his case.

And for that reason, the Court will not go into an analysis of whether 7 Plaintiff has sufficiently pleaded claims under California law. 8 That said, the Court will give Plaintiff a final opportunity to amend after having identified 9 a potential claim under the Fourth Amendment. Should Plaintiff do so, he may not include causes 10 of action that would alter the nature of his suit.

Plaintiff may not also fabricate facts. To that end, 11 the Court reminds Plaintiff that Federal Rule of Civil Procedure 8(a) requires that Plaintiff need 12 only provide a short and plain statement of the claim, but the claims nevertheless need to be 13 facially plausible. 14 IV. 15 CONCLUSION AND ORDER 16 For the reasons discussed herein, Plaintiff fails to state any cognizable claims for relief and 17 shall be granted—for a final time—leave to file a third amended complaint to cure the 18 deficiencies identified in this order, if he believes he can do so in good faith.

See *Lopez v. Smith*, 19 203 F.3d 1122, 1127 (9th Cir. 2000). If Plaintiff chooses to file a third amended complaint, that 20 complaint can be brief, Fed. R. Civ. P. 8(a), but it must state what each named defendant did that 21 led to the deprivation of Plaintiff’s constitutional rights or violations of state law. *Iqbal*, 556 U.S. 22 at 678-79. Importantly, the “[f]actual allegations must be [sufficient] to raise a right to relief 23 above the speculative level.” *Twombly*, 550 U.S. at 555 (citations omitted).

Additionally, 24 Plaintiff may not change the nature of this suit by adding new, unrelated claims in his amended 25 complaint. 26 Finally, Plaintiff is informed that the Court cannot refer to a prior pleading in order to make 27 Plaintiff’s amended complaint complete. Local Rule 220 requires that an amended complaint be 1 | general rule, an amended complaint supersedes the original complaint.

See *Ramirez v. County of 2 | San Bernardino*, 806 F.3d 1002, 1008 (9th Cir. 2015). 3 Based on the foregoing, IT IS HEREBY ORDERED that: 4 1. The Clerk of the Court shall send Plaintiff a complaint for civil case form; 5 2. Within thirty (30) days from the date of service of this order, Plaintiff shall file a 6 third amended complaint curing the deficiencies identified by the Court in this 7 order; 8 3.

The third amended complaint, including attachments, shall not exceed twenty-five 9 (25) pages in length; and 10 4. If Plaintiff fails to file a third amended complaint in compliance with this order,

or 11 fails to meet the federal pleading standard, the Court will recommend to a district 12 judge that this action be dismissed consistent with the reasons stated in this order.

13 4 IT IS SO ORDERED. FA. Se 15 | Dated: _ October 8, 2025 STANLEY A. BOONE 16
United States Magistrate Judge 17 18 19 20 21 22 23 24 25 26 27 28

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