

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

Fortner v. Lake County Jail

No. 25-cv-03451-HSG (N.D. Cal. May 6, 2025) · No. 25-cv-03451-HSG · Decided May 6, 2025

OPINION

Fortner v. Lake County Jail

PER CURIAM.

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4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 ANDY LASHAWN FORTNER, Case No. 25-cv-03451-HSG 8 Plaintiff, ORDER OF
DISMISSAL WITH LEAVE

TO AMEND

9 v. 10 LAKE COUNTY JAIL, et al., 11 Defendants. 12 13 Plaintiff, a pre-trial detainee1
currently housed at Lake County Jail, has filed a pro se 14 action pursuant to 42 U.S.C. § 1983.
His complaint (Dkt. No. 4) is now before the Court for 15 review pursuant to 28 U.S.C. § 1915A.
Plaintiff has been granted leave to proceed in forma 16 pauperis in a separate order.

17 DISCUSSION

18 A. Standard of Review 19 A federal court must conduct a preliminary screening in any case in
which a prisoner seeks 20 redress from a governmental entity or officer or employee of a
governmental entity. See 28 U.S.C. 21 § 1915A(a). Under 28 U.S.C. § 1915(e), “the court shall
dismiss the case at any time if the court 22 determines that . . . the action or appeal . . . is frivolous
or malicious.” 28 U.S.C. § 23 1915(e)(2)(B)(i). A claim that is incomprehensible may be
dismissed as frivolous as it is without 24 an arguable basis in law. See *Jackson v. Arizona*, 885
F.2d 639, 641 (9th Cir. 1989). In its 25 review, the court must identify any cognizable claims and
dismiss any claims that are frivolous, 26 malicious, fail to state a claim upon which relief may be
granted or seek monetary relief from a 27 1 defendant who is immune from such relief. See 28
U.S.C. § 1915A(b)(1), (2). Pro se pleadings 2 must, however, be liberally construed. See *United*
States v. Qazi, 975 F.3d 989, 993 (9th Cir. 3 2020). 4 Federal Rule of Civil Procedure 8(a)(2)
requires only “a short and plain statement of the 5 claim showing that the pleader is entitled to
relief.” Fed. R. Civ. P. 8(a)(2). “Specific facts are not 6 necessary; the statement need only ““give
the defendant fair notice of what the . . . claim is and the 7 grounds upon which it rests.” *Erickson*
v. Pardus, 551 U.S. 89, 93 (2007) (citations omitted). 8 While Rule 8 does not require detailed
factual allegations, it demands more than an unadorned, 9 the-defendant-unlawfully-harmed-me
accusation. *Ashcroft v. Iqbal*, 556 U.S. 662, 677–78 (2009). 10 A pleading that offers only labels

and conclusions, or a formulaic recitation of the elements of a 11 cause of action, or naked assertions devoid of further factual enhancement does not suffice. Id. 12 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential elements: 13 (1) that a right secured by the Constitution or laws of the United States was violated, and (2) that 14 the alleged violation was committed by a person acting under the color of state law. See West v. 15 Atkins, 487 U.S. 42, 48 (1988). 16 B. Dismissal with Leave to Amend 17 The complaint names as defendants “Lake County Jail Medical Staff, Lake County Jail 18 Staff Deputies, Deputy Saye, Phil, Deputy Skoff.” The complaint makes the following 19 allegations. Deputy “Saye Phil”² would not let Plaintiff go get any water. Deputy Skoff made 20 Plaintiff take his medication without any water. Plaintiff was twice falsely accused of stockpiling 21 medication, and written up three times for stockpiling medication. See generally Dkt. No. 4. 22 The Court DISMISSES the complaint for failure to state a claim because it does not allege 23 any violation of federal law or the federal Constitution, as is needed to state a claim under 42 24 U.S.C. § 1983 and for federal subject matter jurisdiction. In the interests of justice, the Court 25 grants Plaintiff leave to file an amended complaint. 26 // 27 1 C. Addressing Plaintiff’s Frequent Filings 2 Plaintiff has filed at least ten lawsuits in the Central District of California and this district 3 since January 2025. In these lawsuits, after filing the initial complaint, Plaintiff also files letters 4 that inform the Court of any wrongs that he allegedly suffers as he experiences them. 5 To assist Plaintiff in effectively seeking relief for alleged mistreatment, the Court provides 6 Plaintiff the following guidance. 7 First, in this Court, Plaintiff should only file actions over which the Court has jurisdiction. 8 Federal courts are courts of limited jurisdiction, which means that the Court is limited in the issues 9 it may consider and relief it may provide. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 10 375, 377 (1994). For this Court to have jurisdiction over an action, there must be either (1) 11 diversity jurisdiction, i.e. the defendants must be from a state other than California and the amount 12 in controversy be over a certain amount, or (2) federal question jurisdiction, i.e., the legal claim 13 involves a federal law, the federal Constitution, or a United States treaty. 28 U.S.C. §§ 1331, 14 1332. Plaintiff may seek relief in this Court only for actions or failures to act that violate federal 15 law or the federal Constitution. The mere fact that Plaintiff has been poorly treated does not, 16 without more, state a violation of federal law or the federal Constitution. 17 Second, Plaintiff should refrain from filing duplicative or repetitious litigation. Plaintiff 18 should not file multiple lawsuits regarding the same event or issue. For example, in C No. 24- 19 3451 HSG, *Fortner v. Lake County Jail*, et al., Plaintiff alleges that he has been falsely accused of 20 stockpiling medication, which is an allegation that he also makes in C No. 25-cv-2615 HSG, 21 *Fortner v. Lake County Jail Staff*, et al. Compare C No. 24-3451 HSG, *Fortner v. Lake County 22 Jail*, et al., Dkt. No. 4 at 2-3 with C No. C No. 25-cv-2615 HSG, *Fortner v. Lake County Jail 23 Staff*, et al., Dkt. No. 1 at. 32. Duplicative or repetitious litigation of virtually identical causes of 24 action is subject to dismissal under 28 U.S.C. § 1915 as malicious. *Bailey v. Johnson*, 846 F.2d 25 1019, 1021 (5th Cir. 1988). An in forma pauperis complaint that merely repeats pending or 26 previously litigated claims may

be considered abusive and dismissed under Section 1915. *Cato v. 27 United States*, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995); *Bailey*, 846 F.2d at 1021. An in forma 1 filed against new defendants, therefore is subject to dismissal as duplicative. *Bailey*, 846 F.2d at 2 1021; *Van Meter v. Morgan*, 518 F.2d 366, 368 (8th Cir. 1975). 3 Third, Plaintiff is cautioned that filing more than three lawsuits that fail to state a claim can 4 result in being denied leave to proceed in forma pauperis in future lawsuits. 28 U.S.C. § 1915(g) 5 provides that a prisoner may not proceed in forma pauperis in a civil action “if the prisoner has, on 6 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or 7 appeal in a court of the United States that was dismissed on the grounds that it is frivolous, 8 malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under 9 imminent danger of serious physical injury.” 28 U.S.C. § 1915(g). Without the ability to proceed 10 in forma pauperis, Plaintiff would need to pay the full \$405 filing fee before he could proceed 11 with a lawsuit. Before filing an action, Plaintiff should research the relevant law to determine 12 whether he has a legal cause of action. 13 Fourth, Plaintiff should not file letters with the Court that inform the Court of events as 14 they happen. The only claims that will be litigated in this action are any cognizable claims pled in 15 the operative complaint. Currently there is no operative complaint. Plaintiff cannot add events to 16 his complaint via letters. Plaintiff should therefore refrain from writing letters to the Court to 17 report on events as they happen as these letters have no legal effect, and the Court cannot take 18 action on letters. Filing numerous letters clutters the docket and may delay the Court’s ability to 19 address meritorious requests or issues.

20 CONCLUSION

21 For the foregoing reasons, the Court DISMISSES the complaint with leave to amend. 22 Within twenty-eight (28) days of the date of this order, Plaintiff shall file an amended complaint 23 that addresses the identified deficiencies. The amended complaint must include the caption and 24 civil case number used in this order, Case No. C 25-03451 HSG (PR) and the words “AMENDED 25 COMPLAINT” on the first page. If using the court form complaint, Plaintiff must answer all the 26 questions on the form in order for the action to proceed. An amended complaint completely 27 replaces the previous complaints. See *Lacey v. Maricopa Cnty.*, 693 F.3d 896, 925 (9th Cir. 1 present and all of the defendants he wishes to sue, and may not incorporate material from the prior 2 || complaint by reference. Failure to file an amended complaint in accordance with this order in the 3 time provided will result in dismissal of this action without further notice to Plaintiff. The Clerk 4 || shall include two copies of the court’s complaint form with a copy of this order to Plaintiff. 5 IT IS SO ORDERED. 6 |} Dated: 5/6/2025 canon S. GILLIAM, JR. / 8 United States District Judge 9 10 11 12 15 16 = 17 Z 18 19 20 21 22 23 24 25 26 27 28