

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

Abraham Kim v. Los Angeles County Sheriff's Department, et al.

Case No. 2:24-cv-10591-CAS-JC · No. 2:24-cv-10591-CAS-JC · Decided April 7, 2025

OPINION

Abraham Kim v. LA County Sheriffs Department

PER CURIAM.

1 2 3 4 5 6 7 8

UNITED STATES DISTRICT COURT

9

CENTRAL DISTRICT OF CALIFORNIA

10 11 ABRAHAM KIM, Case No. 2:24-cv-10591-CAS-JC 12 Plaintiff,

ORDER DISMISSING COMPLAINT

13 v. WITH LEAVE TO AMEND AND

DIRECTING PLAINTIFF TO

14 LOS ANGELES COUNTY RESPOND TO ORDER

SHERIFF'S DEPARTMENT,

15 et al., 16 Defendants. 17

18 I. SUMMARY

19 On December 9, 2024, Plaintiff Abraham Kim, who is at liberty, is 20 proceeding pro se, and has been granted leave to proceed without prepayment of 21 filing fees ("IFP"), filed a Complaint for Violation of Civil Rights ("Complaint"), 22 pursuant to 42 U.S.C. § 1983 ("Section 1983"), against the Los Angeles County 23 Sheriff's Department ("LASD") and "Jailer Garcia," who is sued solely in his or 24 her official capacity. (Docket No. 1). The Complaint asserts that Defendants 25 violated Plaintiff's constitutional rights, as well as state law, by denying adequate 26 care for his back injury, among other alleged mistreatment, when he was a pretrial 27 detainee in LASD custody. (See Comp. at 3-5, 12-14). He seeks damages and 28 other relief. (Comp. at 5).

1 As the Complaint is deficient in multiple respects, including those detailed 2 below, it is dismissed with leave to amend.

3 II. COMPLAINT

4 Liberally construed, the Complaint alleges the following: 5 On or about November 18, 2023, Plaintiff was arrested and put in a holding 6 cell at a police station,¹ where he told the staff he was "injured and need[ed] 7 medical assistance for [his] chronic condition." (Comp. at 5). The injury/ 8 condition at issue apparently was a back injury that Plaintiff sustained either 9 "inside the LA County Jail" or in a "car accident prior to being incarcerated" – it is 10 unclear which. (Comp. at

5). Plaintiff was escorted to the urgent care unit at 11 Men's Central Jail ("MCJ"), "where they inadequately diagnosed [his] condition, 12 dressed [him] in jail attire," and moved him to the Inmate Reception Center 13 ("IRC") at the Twin Towers Correctional Facility. (Comp. at 4, 5). There, 14 Plaintiff "had to go back and forth from laying on the floor to the bench" due to 15 the pain. (Comp. at 5). He requested help, and he asked to sit on a padded chair 16 to alleviate the pain, but he was told to "sit elsewhere." (Comp. at 5). 17 Every IRC staff member allegedly was acting indifferent to the proper 18 protocol for treating an underlying medical condition. (Comp. at 5). The "prison 19 guard" in the IRC allegedly "ignore[d]" Plaintiff's "repeated requests for medical 20 care and fail[ed] to provide any form of care" for Plaintiff's "severe injuries." 21 (Comp. at 12). The IRC's conditions were assertedly "'barbaric' and unorganized, 22 needing to relocate prisoners back and forth for burritos." (Comp. at 5).. 23 After "several days," Plaintiff was moved to "the MCJ dorm." (Comp. at 24 12). On the way there, Plaintiff told "the guard" that he was "in no condition to be 25 held in the dorm, considering past conduct from the jail staff and a previous 26 claim" that Plaintiff had filed, so he "need[ed] to be housed separate from the 27 28 1Plaintiff states that he was put in "a holding cell at TPD." (Comp. at 5). 2 1 criminals." (Comp. at 12). Plaintiff also continued to plead for medical attention. 2 (Comp. at 12). "The guards" told Plaintiff he was suicidal, which Plaintiff denied, 3 and they proceeded to place him "in housing at a different location." (Comp. at 4 12). When Plaintiff arrived, there was no mattress in his cell, but the staff ignored 5 his complaints and "rudely den[ied] necessary bedding and medical care." (Comp. 6 at 12). Plaintiff was left to sleep on the "dirty concrete" floor, which contained 7 "traces of urine and feces," and he was not permitted to shower, though "other 8 inmates next to [him] we[re] getting showers and a bed to sleep on." (Comp. at 9 12). Plaintiff tried to get the attention of the staff members every time they walked 10 by, and they would occasionally "stop and smile" but ignored his requests. 11 (Comp. at 12). Plaintiff also asked to file a grievance, but he was unable to do so, 12 apparently because pen and paper were not permitted. (See Comp. at 12-13). The 13 staff also did not bring him to court during this period. (See Comp. at 12-13). He 14 allegedly remained in these conditions for "almost 3 weeks." (Comp. at 12). 15 When Plaintiff was then moved to different housing, he was able to file 16 grievances, as pencils and forms were "readily accessible," but the "prison staff" 17 allegedly threatened him "not only to disregard [his] grievances but to subdue [his] 18 right as a civilian in prison." (Comp. at 13). Allegedly, in an incident apparently 19 related to such threats, a "guard deliberately tried to assault" Plaintiff, and Plaintiff 20 "grabbed a pillow for protection."2 (Comp. at 13). When Plaintiff was finally 21 brought to the jail's urgent care clinic, he said he wished to speak with his 22 /// 23 /// 24 25 2From Plaintiff's statement about this incident, it is unclear what actually happened. He states: "I grabbed a pillow for protection since my injury won't allow me to run, but the guard 26 deliberately tried to assault me and stepped in but instantly knew the outcome of his actions." 27 (Comp. at 13). As noted below, Plaintiff then goes on to say that he "was finally able to get to the urgent care clinic" (Comp. at 13), but it is unclear whether that visit concerned injuries from 28

the guard's assault (or attempted assault), or was simply to address his ongoing back injury. 3 1 "personal injury attorney," but he apparently heard nothing back and was denied 2 any available physical therapy at the jail.3 (Comp. at 13). 3 Plaintiff was not convicted of any crime, and he apparently was eventually 4 released from custody. (See Comp. at 5, 14). Plaintiff's back injuries had 5 substantially worsened during his time in LASD custody allegedly due to improper 6 care by the staff, as Plaintiff was unable to receive treatment for his "3 disk 7 herniation and disc tears, being in a car accident prior to being incarcerated." 8 (Comp. at 5). After his release from custody, Plaintiff required multiple visits to 9 the emergency room and continues to need chiropractic treatment, and surgery has 10 been recommended. (Comp. at 5). Plaintiff continues to suffer back pain and to 11 walk with a limp, and he "would fall in 3 seconds after starting to run." (Comp. at 12 5). 13 Based on these allegations, Plaintiff asserts that Defendants violated his 14 constitutional Eighth Amendment rights to be free from cruel and unusual 15 punishment and deliberate indifference to his serious medical needs and his 16 Fourteenth Amendment rights to due process, equal protection, and access to 17 courts.4 (See Comp. at 3). 18 19 3Plaintiff's allegation on this point is hard to follow, as it reads: 20 Once I was finally able to get to the urgent care clinic, I asserted that I wanted to 21 talk to my personal injury attorney but none was heard of the reality of my 22 condition and was denied medical treatment with respect to the physical therapy that the facility provides. 23 24 (Comp. at 13). 25 4Plaintiff's claims regarding punitive conditions of confinement and lack of medical care actually arise under and are governed by the Due Process Clause of the Fourteenth Amendment, 26 rather than the Eighth Amendment, because Plaintiff was a pretrial detainee. See *Castro v. 27 County of Los Angeles*, 833 F.3d 1060, 1067-68 (9th Cir. 2016), cert. denied, 580 U.S. 1099

(2017). On the other hand, his claims regarding his right to access the courts, or his right to 28 (continued...) 4

1] PERTINENT LAW

2 A. Screening Requirement 3 Since Plaintiff is proceeding IFP, the Complaint is subject to sua sponte 4 || review and must be dismissed if it is: (1) frivolous or malicious; (2) fails to state a 5 || claim upon which relief may be granted; or (3) seeks monetary relief from a 6 || defendant immune from such relief. See 28 U.S.C. § 1915(e)(2)(B); *Lopez v. 7 || Smith*, 203 F.3d 1122, 1126-27 (9th Cir. 2000) (en banc); *Barren v. Harrington*, 8 | 152 F.3d 1193, 1194 (9th Cir. 1998), cert. denied, 525 U.S. 1154 (1999); see also 9 || *Calhoun v. Stahl*, 254 F.3d 845, 845 (9th Cir. 2001) (per curiam) (Section 10 | 1915(e)(2) applies to all complaints brought by plaintiffs proceeding IFP). 11 When screening a complaint to determine whether it states any claim that is 12 || viable, the Court applies the same standard as it would when evaluating a motion 13 || to dismiss under Federal Rule of Civil Procedure 12(b)(6). See *Rosati v. Igbinoso*, 14 | 791 F.3d 1037, 1039 (9th Cir. 2015) (citation omitted). Rule 12(b)(6), in turn, is 15 || read in conjunction with Rule 8(a) of the Federal Rules of Civil Procedure. 16 || *Zixiang Li v. Kerry*, 710 F.3d 995, 998-99 (9th Cir. 2013). Under Rule 8, each 17 || complaint filed in federal court must contain a

“short and plain statement of the 18 || claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). While 19 || Rule 8 does not require detailed factual allegations, at a minimum a complaint 20 || must allege enough specific facts to provide both “fair notice” of the particular 21 22 4 (...continued) 23 || petition the government for grievances, are addressed under the First Amendment, though the right to access the courts has been found to arise under the Due Process Clause as well. See, □□□□ *Blaisdell v. Frappiea*, 729 F.3d 1237, 1243 (9th Cir. 2013) (“In the context of prisoners’ rights, 25 || the Supreme Court chiefly has located the access-to-courts doctrine in the Constitution’s Due Process and Equal Protection Clauses. At other times, the Court has described the doctrine as 26 part of every citizen’s First Amendment right to petition the government.” (citations omitted)); 27 || *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010) (noting that the “constitutional right to court access” is “grounded in the First Amendment right to petition and the Fourteenth Amendment 28 || right to due process”). 1 || claim being asserted and “the grounds upon which [that claim] rests.” Bell 2 || *Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 & n.3 (2007) (citation and 3 || quotation marks omitted); see also *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) 4 || (Rule 8 pleading standard “demands more than an unadorned, the-defendant- 5 || unlawfully-harmed-me accusation” (citing *Twombly* 550 U.S. at 555)). 6 To avoid dismissal on screening, a complaint must “contain sufficient 7 || factual matter, accepted as true, to state a claim to relief that is plausible on its 8 || face.” *Byrd v. Phoenix Police Dep’t*, 885 F.3d 639, 642 (9th Cir. 2018) (citations 9 || omitted); see also *Johnson v. City of Shelby*, 574 U.S. 10, 12 (2014) (per curiam) 10 | (*Lwombly* and *Iqbal* instruct that plaintiff “must plead facts sufficient to show that 11 || [plaintiffs] claim has substantive plausibility”). A claim is “plausible” when the 12 || facts alleged in the complaint would support a reasonable inference that the 13 || plaintiff is entitled to relief from a specific defendant for specific misconduct. 14 || *Iqbal*, 556 U.S. at 678 (citation omitted); see also *Keates v. Koile*, 883 F.3d 1228, 15 | 1242 (9th Cir. 2018) [A] [Section 1983] plaintiff must plead that each 16 || Government-official defendant, through the official’s own individual actions, has 17 || violated the Constitution.” (quoting *Iqbal*, 556 U.S. at 676)). Allegations that are 18 || “merely consistent with” a defendant’s liability, or reflect only “the mere 19 || possibility of misconduct” do not “show[] that the pleader is entitled to relief” (as 20 || required by Fed. R. Civ. P. 8(a)(2)), and thus are insufficient to state a claim that is 21 || “plausible on its face.” *Iqbal*, 556 U.S. at 678-79 (citations and quotation marks 22 || omitted). 23 At this preliminary stage, “well-pleaded factual allegations” in a complaint 24 || are assumed true, while “[t]hreadbare recitals of the elements of a cause of action” 25 || and “legal conclusion[s] couched as a factual allegation” are not. *Id.* (citation and 26 || quotation marks omitted); *Jackson v. Barnes*, 749 F.3d 755, 763 (9th Cir. 2014) 27 || (“mere legal conclusions ‘are not entitled to the assumption of truth’” (quoting 28 || *Iqbal*, 556 U.S. at 678-79)), cert. denied, 574 U.S. 1077 (2015). 1 In general, civil rights complaints are interpreted liberally in order to give 2 || pro se plaintiffs “the benefit of any doubt.” *Byrd*, 885 F.3d at 642 (citations and 3 || internal quotation marks omitted). Nonetheless, a pro se plaintiff must still follow 4 || the rules of procedure that govern all litigants

in federal court, including the 5 | Rule 8 requirement that a complaint minimally state a short and plain statement of 6 || a claim that is plausible on its face. See *Ghazali v. Moran*, 46 F.3d 52, 54 (9th Cir. 7 || 1995) (per curiam) (“Although we construe pleadings liberally in their favor, pro 8 || se litigants are bound by the rules of procedure.” (citation omitted)), cert. denied, 9 || 516 U.S. 838 (1995); see also *Chapman v. Pier 1 Imports (U.S.) Inc.*, 631 F.3d 10 || 939, 954 (9th Cir. 2011) (en banc) (“[A] liberal interpretation of a... civil rights 11 || complaint may not supply essential elements of [a] claim that were not initially 12 || pled.” (quoting *Pena v. Gardner*, 976 F.2d 469, 471 (9th Cir. 1992)) (quotation 13 || marks omitted; ellipses in original)). 14 If a pro se complaint is dismissed because it does not state a viable claim, 15 || the court must freely grant “leave to amend” if it is “at all possible” that the 16 || plaintiff could fix the identified pleading errors by alleging different or new facts. 17 || *Cafasso v. Gen. Dynamics C4 Sys., Inc.*, 637 F.3d 1047, 1058 (9th Cir. 2011) 18 || (citation omitted); *Lopez v. Smith*, 203 F.3d at 1126-30 (citations and internal 19 || quotation marks omitted). 20 B. — Section 1983 Claims 21 To state a Section 1983 claim, a complaint must allege that a defendant, 22 || while acting under color of state law, caused a deprivation of the plaintiffs federal 23 || rights. 42 U.S.C. § 1983; *West v. Atkins*, 487 U.S. 42, 48 (1988) (citations 24 || omitted); *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989) (citation omitted). 25 || There is no vicarious liability in Section 1983 lawsuits. *Iqbal*, 556 U.S. at 676. 26 || (citing, inter alia, *Monell v. Dep’t of Soc. Servs. of City of New York*, 436 U.S. 27 || 658, 691 (1978)). Hence, a government official may not be held liable under 28 || Section 1983 unless the particular official’s own actions caused the alleged 1 || constitutional deprivation. *OSU Student Alliance v. Ray*, 699 F.3d 1053, 1069 2 (9th Cir. 2012) (citing *Iqbal*, 556 U.S. at 676), cert. denied, 571 U.S. 819 (2013). 3 || A Section 1983 plaintiff must establish both causation-in-fact and proximate (i.e., 4 || legal) causation. See *Harper v. City of Los Angeles*, 533 F.3d 1010, 1026 (9th 5 || Cir. 2008). Allegations regarding Section 1983 causation “must be individualized 6 || and focus on the duties and responsibilities of each individual defendant whose 7 || acts or omissions are alleged to have caused a constitutional deprivation.” *Leer v. 8 || Murphy*, 844 F.2d 628, 633 (9th Cir. 1988) (citations omitted). “Sweeping 9 || conclusory allegations [regarding causation] will not suffice” *Id.* (citation 10 || omitted). 11 An individual “causes” a constitutional deprivation basically when he 12 || (1) “does an affirmative act, participates in another’s affirmative acts, or omits to 13 || perform an act which he is legally required to do that causes the deprivation”; or 14 || (2) “set[s] in motion a series of acts by others which the [defendant] knows or 15 || reasonably should know would cause others to inflict the constitutional injury.” 16 || *Lacey v. Maricopa County*, 693 F.3d 896, 915 (9th Cir. 2012) (en banc) (quoting 17 || *Johnson v. Duffy*, 588 F.2d 740, 743-44 (9th Cir. 1978)) (quotation marks 18 || omitted).

19] DISCUSSION

20 Plaintiff’s Complaint is dismissed with leave to amend for violation of 21 || Rule 8 of the Federal Rules of Civil Procedure, among other deficiencies, 22 || including those addressed below. 23 First, the Complaint violates Rule 8 because it fails to provide Defendants 24 || with adequate

notice of the claims against them. As explained above, Rule 8(a) 25 || requires a complaint to contain “a short and plain statement of the claim showing 26 || that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). “The ‘short and plain 27 || statement’ must provide defendants with ‘fair notice of what the plaintiffs claim 28 || is and the grounds upon which it rests.’” *Dura Pharm., Inc. v. Broudo*, 544 U.S. 1 || 336, 346 (2005) (citation omitted); see also *Skaiff v. Meridien N. Am. Beverly 2 || Hills, LLC*, 506 F.3d 832, 841 (9th Cir. 2007) (per curiam) (“[T]he purpose of a 3 || complaint under Rule 8 [is] to give the defendant fair notice of the factual basis of 4 || the claim and of the basis for the court’s jurisdiction.”); *Jones v. Cmty. 5 || Redevelopment Agency*, 733 F.2d 646, 649 (9th Cir. 1984) (“[A] pleading must 6 || give fair notice and state the elements of the claim plainly and succinctly.” 7 || (citation and internal punctuation omitted)). To conform to this rule, a complaint 8 | should “fully set[] forth who is being sued, for what relief, and on what theory, 9 || with enough detail to guide discovery.” *McHenry v. Renne*, 84 F.3d 1172, 1177 10 | (9th Cir. 1996). A complaint violates Rule 8 if a defendant would have difficulty 11 | understanding and responding to it. See *Cafasso*, 637 F.3d at 1058-59. 12 Here, aside from a few general statements of Plaintiffs legal claims on the 13 | form Complaint, Plaintiff’s facts are largely set forth in three very lengthy 14 || paragraphs that are replete with rambling, incoherent allegations, making it 15 || difficult to discern what happened or how such facts and assertions relate to any 16 || claims against Defendants. At one point, for example, Plaintiff refers to staff 17 || giving inmates “contraband” such as “[m]ovies pre downloaded on to a USB, 18 || Netflix accounts, Amazon packages, [and] pen and paper,” along with “free 19 || coffee” (Comp. at 13), but Plaintiff gives no indication as to how this harmed 20 || Plaintiff or violated his rights during the period of confinement at issue. 21 Many of Plaintiff’s allegations are simply vague. Plaintiff states, for 22 || example, that “they inadequately diagnosed [his] condition” in the urgent care unit 23 || at MCJ shortly after his arrest, but he does not explain how the diagnosis was 24 || “inadequate,” nor does he indicate what treatment was provided, if any.” (See 25 26 °A pretrial detainee’s claim regarding inadequate medical treatment or conditions of 27 || confinement, which is governed under the Due Process Clause, must allege the following: 28 (continued...))

1 Comp. at 5). Plaintiff also asserts that the conditions at the IRC were “‘barbaric’
2 and unorganized,” but he provides no clear facts to show this, aside from a vague 3 remark that staff “need[ed] to relocate prisoners back and forth for burritos,” along 4 with allegations about having to sit on a bench rather than a padded chair.⁶ 5 (Comp. at 5). Plaintiff states that when he was being moved to “the MCJ dorm,” 6 he told “the guard” that he was “in no condition to be held in the dorm, 7 considering past conduct from the jail staff and a previous claim” that Plaintiff had 8 filed (Comp. at 12), but he does not explain what “past conduct” had occurred or 9 why he needed different housing. At another point, Plaintiff asserts that he “was 10 not able to go to court during this time and was not able to appeal” (Comp. at 13), 11 but he does not indicate whether he had any court proceedings scheduled, or what 12 matters he wished to “appeal.” He also alleges, near the end of the Complaint, that 13 the following occurred after he was moved to a different

facility: 14 The prison staff was threatening me at this time, not only to disregard 15 my grievances but to subdue my right as a civilian in prison. I 16 grabbed a pillow for protection since my injury won't allow me to 17 /// 18 19 5(...continued) 20 (i) the defendant made an intentional decision with respect to the conditions under which the plaintiff was confined; (ii) those conditions put the plaintiff at 21 substantial risk of suffering serious harm; (iii) the defendant did not take 22 reasonable available measures to abate that risk, even though a reasonable official in the circumstances would have appreciated the high degree of risk involved – 23 making the consequences of the defendant's conduct obvious; and (iv) by not 24 taking such measures, the defendant caused the plaintiff's injuries. 25 *Gordon v. Cnty. of Orange*, 888 F.3d 1118, 1125 (9th Cir. 2018), cert. denied, 586 U.S. 1069

(2019); *Sandoval v. Cnty. of San Diego*, 985 F.3d 657, 669 (9th Cir.), cert. denied, 142 S. Ct.

26 711 (2021). 27 6Plaintiff indicates that he was in the IRC for "several days" (FAC at 12), but it is not 28 clear whether he was restricted to a bench for that whole time. 10 1 run, but the guard deliberately tried to assault me and stepped in but 2 instantly knew the outcome of his actions. 3 (Comp. at 13). This alleged confrontation with "the guard" appears abruptly in 4 Plaintiff's allegations, with no clear context. Among other things, Plaintiff fails to 5 indicate how this confrontation occurred and whether the guard actually assaulted 6 Plaintiff, and if not, why the attempt at assault was unsuccessful – i.e., what was 7 the "outcome of his actions"? It is also unclear how, if at all, this assault, or 8 attempted assault, relates to the alleged threats to disregard Plaintiff's grievances.⁷ 9 Some of Plaintiff's allegations appear contradictory. For example, Plaintiff 10 states, at one point, that his back injuries "were sustained inside the LA County 11 Jail," but also refers to his "chronic condition" and references having been "in a 12 car accident prior to being incarcerated" (see Comp. at 5), making it somewhat 13 unclear whether his back injury occurred while in jail – and, if so, how – or merely 14 persisted and worsened while there. Other matters are similarly ambiguous. 15 Plaintiff alleges, for instance, that he had no mattress in his cell at MCJ and had to 16 sleep on the floor, but later asserts that the facility's "mattresses should be 17 unclosed free of holes [sic] and . . . replaced upon request," making it unclear 18 whether he had no mattress at all or a mattress in poor condition. (FAC at 12). 19 Moreover, none of the individuals who were involved with Plaintiff's 20 custody and treatment during the period at issue are ever named or otherwise 21 distinguished from one another. Instead, Plaintiff's allegations refer only vaguely 22 23 7"Prisoners have a First Amendment right to file grievances against prison officials" *Watson v. Carter*, 668 F.3d 1108, 1114 (9th Cir. 2012) (citation omitted). Retaliation against a 24 prisoner for exercising his First Amendment right to seek redress/access the court is an 25 independent constitutional violation. *Brodheim v. Cry*, 584 F.3d 1262, 1269 (9th Cir. 2009). To state a First Amendment retaliation claim, an inmate must allege, among other things, that he 26 engaged in constitutionally protected conduct (such as filing grievances), that a prison official 27 took "adverse action" against the inmate, and that the inmate's constitutionally protected conduct was the "substantial or motivating factor" behind the

prison official's adverse action. *Watson*, 28 F.3d at 1114-15 (citations and internal quotation marks omitted). ¶ 11 ¶ 1 to the "staff," "guards," or other general designations. The only name is that of ¶ 2 ¶ "Jailer Garcia," who is listed as a Defendant (albeit only in his or her official ¶ 3 capacity), but Plaintiff never specifies how this Defendant was directly involved in ¶ 4 Plaintiff's custody or care, if at all.* ¶ 5 In sum, Plaintiff's Complaint deprives Defendants of fair notice of the ¶ 6 claims in a concise and coherent manner, as required by Rule 8. See *Twombly*, 7 ¶ 550 U.S. at 555; *McHenry*, 84 F.3d at 1178. To remedy this, Plaintiff must, at a ¶ 8 minimum, provide clear factual allegations against Defendants, separate each legal ¶ 9 predicate into a separate claim, and expressly identify which allegations are at ¶ 10 issue in each claim. See *Twombly*, 550 U.S. at 555 & n.3. Each claim should be ¶ 11 limited to a concise statement of the facts and legal grounds at issue; legal ¶ 12 arguments and analysis should be avoided at this stage, as they only serve to ¶ 13 obscure the nature of the claims at issue. ¶ 14 In addition, the Complaint fails to state a claim against the LASD and ¶ 15 "Jailer Garcia," the latter of whom is sued only in his or her official capacity. A ¶ 16 claim against a defendant in his or her official capacity is equivalent to a claim ¶ 17 against the state or local government entity that employs the named individual. ¶ 18 *Kentucky v. Graham*, 473 U.S. 159, 166 (1985); *Center for Bio-Ethical Reform, Inc. v. Los Angeles Cty. Sheriff Dep't*, 533 F.3d 780, 799 (9th Cir. 2008), cert. ¶ 20 denied, 555 U.S. 1098 (2009). A plaintiff pursuing claims against a government ¶ 21 entity or a defendant in his or her official capacity must demonstrate that a policy ¶ 22 or custom of the governmental entity was the moving force behind the violation. ¶ 23 See *Hafer v. Melo*, 502 U.S. 21, 25 (1991) ("Because the real party in interest in ¶ 24 an official-capacity suit is the governmental entity and not the named official, 'the ¶ 25 ¶ 26 'Because Jailer Garcia is sued only in his or her official capacity, Garcia's direct ¶ 27 involvement is not necessarily required, but, as indicated below, providing allegations of conduct by individually identified Defendants (even if identified as Doe 1, Doe 2, etc.) would be required ¶ 28 to seek relief regarding individual violations not caused by the County or LASD itself. ¶ 12 ¶ 1 entity's "policy or custom" must have played a part in the violation of federal ¶ 2 law.'" (quoting *Graham*, 473 U.S. at 166)). That is, the plaintiff must establish an ¶ 3 affirmative causal link between the policy at issue and the alleged constitutional ¶ 4 violation. See *City of Canton v. Harris*, 489 U.S. 378, 385, 391-92 (1989); *Van ¶ 5 Ort v. Estate of Stanewich*, 92 F.3d 831, 835 (9th Cir. 1996) (citing *Hafer*, 502 ¶ 6 U.S. at 25), cert. denied, 519 U.S. 1111 (1997). ¶ 7 Here, Plaintiff fails to state a claim against LASD, or against Garcia in his ¶ 8 or her official capacity, because he does not clearly identify any custom, policy, or ¶ 9 practice of the County or LASD that violated his constitutional rights." See ¶ 10 *Gomez v. Vernon*, 255 F.3d 1118, 1127 (9th Cir.) (state prison administrators ¶ 11 "liable in their official capacities only if policy or custom played a part in the ¶ 12 violation of federal law" (citation omitted)), cert. denied, 534 U.S. 1066 (2001). ¶ 13 To the contrary, many of Plaintiff's allegations suggest that Plaintiff's conditions ¶ 14 resulted from individual conduct or neglect, rather than a broader policy or ¶ 15 practice. For example, Plaintiff alleges that while he was deprived of a mattress or ¶ 16 showers at MCJ, "other

inmates next to [him] we[re] getting showers and a bed to 17 || sleep on.” (Comp. at 12). In such circumstances, absent facts plausibly 18 || demonstrating that a policy or practice caused the alleged violations, Plaintiff 19 || would need to sue the individual officers whose actions (or inaction) violated his 20 || rights — and as indicated above, he would then need to provide allegations 21 || showing how each individual Defendant violated his rights. See *Leer*, 844 F.2d at 22 | 633. 23 /// 24 | a 25 *Although a “local government may [also] be liable under [Section] 1983 for an official’s conduct where the official had final policymaking authority concerning the action at issue, and 26 || where the official was the policymaker for the local governing body for the purposes of the 27 || particular act,” *Garmon v. County of Los Angeles*, 828 F.3d 837, 846 (9th Cir. 2016), Plaintiff does not plausibly allege that any action against him was directed or carried out by any such 28 || official. 13 1 Accordingly, dismissal with leave to amend is warranted for violation of

2 Rule 8 and other deficiencies, including those addressed above.10

3 V. ORDERS11

4 In light of the foregoing, IT IS HEREBY ORDERED that the Complaint is 5 dismissed with leave to amend. 6 IT IS FURTHER ORDERED that within twenty-one (21) days of the date of 7 this Order, plaintiff must do one of the following: 8 1. File a First Amended Complaint which cures the pleading defects set 9 forth herein;12 or 10 2. Sign and file the attached Notice of Dismissal which will result in 11 the voluntary dismissal of this action without prejudice; or 12 /// 13 14 10That only certain deficiencies are addressed above should not be construed as validating 15 the merits of other portions of the Complaint in any respect. 16 11The Magistrate Judge’s orders herein constitute non-dispositive rulings on pretrial matters. To the extent a party disagrees with such non-dispositive rulings, such party may file a 17 motion for review by the assigned District Judge within fourteen (14) days. See Local Rule 72- 18 2.1. To the extent a party believes the rulings to be dispositive, rather than non-dispositive, such party has the right to object to this Court’s determination that the rulings are non-dispositive 19 within fourteen (14) days. A party will be foreclosed from challenging the rulings herein if such 20 party does not seek review thereof, or object thereto. 21 12The Clerk is directed to provide plaintiff with a Central District of California Civil Rights Complaint Form, CV-66, to facilitate Plaintiff’s filing of a First Amended Complaint if he 22 elects to proceed in that fashion. Any First Amended Complaint must: (a) be labeled “First 23 Amended Complaint”; (b) be complete in and of itself and not refer in any manner to the original Complaint – i.e., it must include all claims on which plaintiff seeks to proceed (Local Rule 15-2); 24 (c) contain a “short and plain” statement of each of the claim(s) for relief (Fed. R. Civ. P. 8(a)); (d) make each allegation “simple, concise and direct” (Fed. R. Civ. P. 8(d)(1)); (e) set forth 25 clearly the sequence of events giving rise to the claim(s) for relief in sequentially “numbered 26 paragraphs, each limited as far as practicable to a single set of circumstances” (Fed. R. Civ. P. 10(b)); (f) allege specifically what each defendant did and how that individual’s conduct 27 specifically violated plaintiff’s civil rights; (g) state the names of all

defendants in the caption 28 (Fed. R. Civ. P. 10(a)); and (h) not add defendants or claims that are not reasonably related to the claims asserted in the original Complaint. 14 1 3. File a Notice of Intent to Stand on Complaint, indicating Plaintiff's 2 intent to stand on the original Complaint despite the pleading defects set forth 3 herein, which may result in the dismissal of this action in its entirety based upon 4 such defects. 5 Plaintiff is cautioned that Plaintiff's failure timely to file a First 6 Amended Complaint, a Notice of Dismissal, or a Notice of Intent to Stand on 7 Complaint may be deemed plaintiff's admission that amendment is futile, and 8 may result in the dismissal of this action with or without prejudice on the 9 grounds set forth above, on the ground that amendment is futile, for failure 10 diligently to prosecute and/or for failure to comply with this Order. 11 IT IS SO ORDERED. 12 DATED: April 7, 2025 13 _____/s/_____ 14 Honorable Jacqueline Chooljian

UNITED STATES MAGISTRATE JUDGE

15 Attachments 16

17 18 19 20 21 22 23 24 25 26 27 28 15