

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

Francisco Bautista v. Ada County Jail Medical Services and
Unnamed and Unknown Individuals

Bautista · No. 1:25-cv-00491-BLW · Decided December 5, 2025

SUMMARY

The United States District Court for the District of Idaho screened Francisco Bautista’s § 1983 complaint alleging inadequate medical treatment for a right-eye condition while he was incarcerated at the Ada County Jail. The court concluded that the complaint failed to plausibly allege Eighth Amendment deliberate indifference or municipal liability under Monell, but granted Bautista 28 days to file an amended complaint. The court denied his request for appointed counsel without prejudice and warned that failure to amend could result in dismissal.

CASE DETAILS

COURT	United States District Court for the District of Idaho
WRITING FOR THE COURT	B. Lynn Winmill
JURISDICTION	United States District Court for the District of Idaho
DECIDED	December 5, 2025
DOCKET	1:25-cv-00491-BLW
DISPOSITION	other
PROCEDURAL POSTURE	Initial screening order under 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b) in a prisoner civil-rights action filed in forma pauperis. The court concluded that the complaint failed to state a claim but permitted plaintiff 28 days to amend.
STANDARD OF REVIEW	The court screened the complaint under 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b), accepting factual allegations as true and applying the Federal Rule of Civil Procedure 8 plausibility standard articulated in Ashcroft v. Iqbal and Bell Atlantic Corp. v. Twombly.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Francisco Bautista v. Ada County Jail Medical Services, Unnamed and Unknown Individuals

TOPICS

section 1983

prisoners rights

civil rights

pleadings

health law

PRACTICE AREAS

civil rights

prisoner litigation

constitutional law

civil procedure

health law

QUESTIONS PRESENTED

1. Whether the complaint plausibly stated an Eighth Amendment deliberate-indifference claim based on the alleged delay or inadequacy of medical treatment.
2. Whether the complaint stated a claim under 42 U.S.C. § 1983 against Ada County Medical Services without alleging a policy, custom, ratification, or final policymaker decision causing the alleged injury.
3. What factual and pleading requirements an amended complaint must satisfy to proceed past screening.

HOLDINGS

1. The complaint failed to state a plausible Eighth Amendment claim because, at most, it alleged that unidentified jail medical personnel were negligent in failing to recognize the seriousness of Bautista's eye condition; negligence or medical malpractice is insufficient to establish deliberate indifference.
2. The complaint failed to state a municipal-liability claim because it did not allege that a policy, custom, final policymaker decision, or ratification by Ada County caused the alleged inadequate medical treatment.
3. Bautista was permitted 28 days to file an amended complaint that identifies each defendant, states the factual and legal basis for each claim, alleges causation and injury, and satisfies Rule 8 and the applicable § 1983 and Eighth Amendment standards.

KEY QUOTATIONS

“A complaint fails to state a claim for relief under Rule 8 if the factual assertions in the complaint, taken as true, are insufficient for the reviewing court plausibly “to draw the reasonable inference that the defendant is liable for the misconduct alleged.”” (Section 1)

“A defendant may be held liable as a supervisor under § 1983 ‘if there exists ... a sufficient causal connection between the supervisor’s wrongful conduct and the constitutional violation.’” (Section 3.A)

“The Complaint plausibly suggests, at most, that unidentified jail medical personnel might have been negligent in failing to recognize that Plaintiff had a serious eye condition.” (Section 3.B)

“The Complaint fails to state a claim upon which relief may be granted. Plaintiff has 28 days within which to file an amended complaint as described above.” (Order paragraph 1)

FACTUAL BACKGROUND

Bautista, an Idaho prisoner, alleged that while incarcerated at the Ada County Jail he experienced a deteriorating right-eye condition over several months and sent numerous requests for medical treatment. He alleged that jail medical personnel told him that nothing was seriously wrong and that, four or five months after his symptoms

began, an outside optometrist stated that the delay had caused irreparable damage and vision loss. Bautista did not identify the individual medical providers involved and did not allege facts showing that Ada County Medical Services acted pursuant to a policy, custom, or practice.

PROCEDURAL HISTORY

The Clerk conditionally filed Bautista's complaint because he was an inmate seeking to proceed in forma pauperis. After screening the complaint, the court found that the allegations did not plausibly state an Eighth Amendment or municipal-liability claim. The court directed Bautista to file an amended complaint within 28 days, denied appointment of counsel without prejudice, and warned that failure to amend could result in dismissal.

DISPOSITION

other

CASES CITED

- Ashcroft v. Iqbal, 556 U.S. 662, 677-79 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-56 (2007)
- Jackson v. Arizona, 885 F.2d 639, 640 (9th Cir. 1989)
- Lopez v. Smith, 203 F.3d 1122, 1130 (9th Cir. 2000)
- Crumpton v. Gates, 947 F.2d 1418, 1420 (9th Cir. 1991)
- Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978)
- Taylor v. List, 880 F.2d 1040, 1045 (9th Cir. 1989)
- Starr v. Baca, 652 F.3d 1202, 1205-09 (9th Cir. 2011)
- Hansen v. Black, 885 F.2d 642, 646 (9th Cir. 1989)
- Monell v. Department of Social Services of the City of New York, 436 U.S. 658, 691, 694 (1978)
- Mabe v. San Bernardino County, 237 F.3d 1101, 1110-11 (9th Cir. 2001)
- Clouthier v. County of Contra Costa, 591 F.3d 1232, 1250 (9th Cir. 2010)
- Castro v. County of Los Angeles, 833 F.3d 1060, 1069 (9th Cir. 2016) (en banc)
- Adickes v. S.H. Kress & Co., 398 U.S. 144, 167-68 (1970)
- Trevino v. Gates, 99 F.3d 911, 918 (9th Cir. 1996)
- Farmer v. Brennan, 511 U.S. 825, 834-35, 837, 844 (1994)
- Snow v. McDaniel, 681 F.3d 978, 985 (9th Cir. 2012)
- Peralta v. Dillard, 744 F.3d 1076 (9th Cir. 2014) (en banc)
- Estelle v. Gamble, 429 U.S. 97, 104-06 (1976)
- Hudson v. McMillian, 503 U.S. 1, 9 (1992)
- McGuckin v. Smith, 974 F.2d 1050, 1059-60 (9th Cir. 1992)
- WMX Technologies, Inc. v. Miller, 104 F.3d 1133 (9th Cir. 1997) (en banc)

- Gibson v. County of Washoe, 290 F.3d 1175, 1187-88 (9th Cir. 2002)
- Toguchi v. Chung, 391 F.3d 1051, 1057-61 (9th Cir. 2004)
- Roberts v. Spalding, 783 F.2d 867, 870 (9th Cir. 1986)
- Sanchez v. Vild, 891 F.2d 240, 242 (9th Cir. 1989)
- Jackson v. McIntosh, 90 F.3d 330, 332 (9th Cir. 1996)
- Norsworthy v. Beard, 87 F. Supp. 3d 1104, 1117 (N.D. Cal. 2015)
- Collignon v. Milwaukee County, 163 F.3d 982, 989 (7th Cir. 1998)
- Lamb v. Norwood, 899 F.3d 1159, 1162 (10th Cir. 2018)
- Ellis v. Cassidy, 625 F.2d 227, 229 (9th Cir. 1980)
- Kay v. Ehrler, 499 U.S. 432 (1991)
- Ivey v. Board of Regents of the University of Alaska, 673 F.2d 266, 268 (9th Cir. 1982)
- Forsyth v. Humana, Inc., 114 F.3d 1467, 1474 (9th Cir. 1997)
- Lacey v. Maricopa County, 693 F.3d 896 (9th Cir. 2012) (en banc)
- Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc., 896 F.2d 1542, 1546 (9th Cir. 1990)
- Knapp v. Hogan, 738 F.3d 1106, 1110 (9th Cir. 2013)
- Spencer v. Barajas, 140 F.4th 1061, 1066 (9th Cir. 2025)

OPINION

Bautista

PER CURIAM.

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

FRANCISCO BAUTISTA,

Case No. 1:25-cv-00491-BLW Plaintiff,

INITIAL REVIEW ORDER BY

v. SCREENING JUDGE

ADA COUNTY JAIL MEDICAL

SERVICES and UNNAMED AND

UNKNOWN INDIVIDUALS,

Defendants. The Clerk of Court conditionally filed Plaintiff Francisco Bautista's Complaint because of Plaintiff's status as an inmate and in forma pauperis request. A "conditional filing" means that a plaintiff must obtain authorization from the Court to proceed. Upon screening, the Court must dismiss claims that are frivolous or malicious, fail to state a claim upon which relief may be granted, or seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b). Having reviewed the record, the Court concludes that the Complaint fails to state a claim upon which relief may be granted. Accordingly, the Court enters the following Order directing Plaintiff to file an amended complaint if Plaintiff intends to proceed.

1. Standards of Law for Screening Complaints

A complaint must contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). A complaint fails to state a claim for relief under Rule 8 if the factual assertions in the complaint, taken as true, are insufficient for the reviewing court plausibly “to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

To state an actionable claim, a plaintiff must provide “enough factual matter (taken as true) to suggest” that the defendant committed the unlawful act, meaning that sufficient facts are pled “to raise a reasonable expectation that discovery will reveal evidence of illegal [activity].” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 556 (2007). “A pleading that offers ‘labels and conclusions’ or ‘a formulaic recitation of the elements of a cause of action will not do.’” *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 555). The Court liberally construes the pleadings to determine whether a case should be dismissed for a failure to plead sufficient facts to support a cognizable legal theory or for the absence of a cognizable legal theory. The critical inquiry is whether a constitutional claim, however inartfully pleaded, has an arguable factual and legal basis. See *Jackson v. Arizona*, 885 F.2d 639, 640 (9th Cir. 1989) (discussing Federal Rule of Civil Procedure 12(b)(6)), superseded by statute on other grounds as stated in *Lopez v. Smith*, 203 F.3d 1122, 1130 (9th Cir. 2000).

2. Factual Allegations

Plaintiff is a prisoner in the custody of the Idaho Department of Correction, currently incarcerated at the Idaho State Correctional Institution. Plaintiff claims that, when he was incarcerated at the Ada County Jail, he was denied adequate medical treatment with respect to his right eye. Compl., Dkt. 3, at 2. According to the Complaint, Plaintiff’s eye condition deteriorated “over a period of many months,” and he sent “numerous concerns to defendants seeking medical treatment.” *Id.* Plaintiff was unsatisfied with the responses of medical personnel, who purportedly told Plaintiff there was nothing seriously wrong with his eye. Four or five months after Plaintiff’s symptoms began, he was seen by an off-site optometrist. The optometrist asked Plaintiff why he had waited so long to see him and stated that the delay “caused irreparable damage resulting in vision loss in [Plaintiff’s] right eye.” *Id.* Plaintiff does not identify any jail medical provider who treated Plaintiff or who failed to respond to Plaintiff’s concerns. Plaintiff sues unidentified individuals and “Ada County Medical Services,” asserting claims under the Eighth Amendment to the Constitution. *Id.*

3. Discussion

Plaintiff has not stated a claim upon which relief may be granted. The Court will, however, grant Plaintiff 28 days to amend the Complaint. Any amended complaint should take into consideration the following. A. Standards of Law Applicable to Plaintiff’s Claims Plaintiff brings claims under 42 U.S.C. § 1983, the civil rights statute. To state a plausible civil rights claim, a plaintiff must allege a violation of rights protected by the Constitution or created by federal statute proximately

caused by conduct of a person acting under color of state law. *Crompton v. Gates*, 947 F.2d 1418, 1420 (9th Cir. 1991). A defendant causes a constitutional deprivation within the meaning of § 1983 “if he does an affirmative act, participates in another’s affirmative acts, or omits to perform an act which he is legally required to do that causes the deprivation.” *Johnson v. Duffy*, 588 F.2d 740, 743 (9th Cir. 1978). That is, jail officials and jail medical providers generally are not liable for damages in their individual capacities under § 1983 unless they personally participated in the alleged constitutional violations. *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989); see also *Iqbal*, 556 U.S. at 677 (“[E]ach Government official, his or her title notwithstanding, is only liable for his or her own misconduct.”). Section 1983 does not allow for recovery against an employer or principal simply because an employee or agent committed misconduct. *Taylor*, 880 F.2d at 1045. However, “[a] defendant may be held liable as a supervisor under § 1983 ‘if there exists ... a sufficient causal connection between the supervisor’s wrongful conduct and the constitutional violation.’” *Starr v. Baca*, 652 F.3d 1202, 1207 (9th Cir. 2011) (quoting *Hansen v. Black*, 885 F.2d 642, 646 (9th Cir. 1989)). A plaintiff can establish this causal connection by alleging a defendant (1) set in motion a series of acts by others that violated the Constitution, or knowingly refused to terminate a series of such acts, which the supervisor “knew or reasonably should have known would cause others to inflict a constitutional injury”; (2) knowingly failed to act or acted improperly “in the training, supervision, or control of his subordinates”; (3) acquiesced in the constitutional deprivation; or (4) engaged in conduct showing “a reckless or callous indifference to the rights of others.” *Id.* at 1205–09 (internal quotation marks omitted). To bring a § 1983 claim against a local governmental entity such as Ada County, a plaintiff must allege that the execution of an official policy or unofficial custom inflicted the injury of which the plaintiff complains, as required by *Monell v. Dep’t of Soc. Servs. of New York*, 436 U.S. 658, 694 (1978). Under *Monell*, the requisite elements of a § 1983 claim against such an entity are the following: (1) the plaintiff was deprived of a constitutional right; (2) the entity had a policy or custom; (3) the policy or custom amounted to deliberate indifference to plaintiff’s constitutional right; and (4) the policy or custom was the moving force behind the constitutional violation. *Mabe v. San Bernardino Cnty.*, 237 F.3d 1101, 1110–11 (9th Cir. 2001). An entity also “may be held liable under § 1983 when the individual who committed the constitutional tort was an official with final policy-making authority” or when “such an official ratified a subordinate’s unconstitutional decision or action and the basis for it.” *Clouthier v. Cnty. of Contra Costa*, 591 F.3d 1232, 1250 (9th Cir. 2010), overruled in part on other grounds by *Castro v. Cnty. of Los Angeles*, 833 F.3d 1060, 1069 (9th Cir. 2016) (en banc). An unwritten policy or custom must be so “persistent and widespread” that it constitutes a “permanent and well settled” practice. *Monell*, 436 U.S. at 691 (quoting *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 167–68 (1970)). “Liability for improper custom may not be predicated on isolated or sporadic incidents; it must be founded upon practices of sufficient duration, frequency and consistency that the conduct has become a traditional method of carrying out policy.” *Trevino v. Gates*, 99 F.3d 911, 918 (9th Cir. 1996). A plaintiff cannot simply restate these standards of law

in a complaint. Instead, a plaintiff must provide specific facts supporting the elements of each claim and must allege facts showing a causal link between each defendant and Plaintiff's injury or damage. Alleging "the mere possibility of misconduct" is not enough. *Iqbal*, 556 U.S. at 679. The Eighth Amendment protects prisoners against cruel and unusual punishment and guarantees prisoners the right to minimally adequate conditions of confinement. To state a claim under the Eighth Amendment, a prisoner must plausibly allege that he is "incarcerated under conditions posing a substantial risk of serious harm," or that he has been deprived of "the minimal civilized measure of life's necessities" as a result of the defendants' actions. *Farmer v. Brennan*, 511 U.S. 825, 834 (1994) (internal quotation marks omitted). An Eighth Amendment claim requires the plaintiff to satisfy both (1) an objective standard, "that the deprivation was serious enough to constitute cruel and unusual punishment," and (2) a subjective standard, that the defendant acted with "deliberate indifference." *Snow v. McDaniel*, 681 F.3d 978, 985 (9th Cir. 2012), overruled in part on other grounds by *Peralta v. Dillard*, 744 F.3d 1076 (9th Cir. 2014) (en banc). The Eighth Amendment includes the right to adequate medical treatment in prison. Prison officials or prison medical providers can be held liable if their "acts or omissions [were] sufficiently harmful to evidence deliberate indifference to serious medical needs." *Estelle v. Gamble*, 429 U.S. 97, 106 (1976). Regarding the objective standard for prisoners' medical care claims, "society does not expect that prisoners will have unqualified access to health care." *Hudson v. McMillian*, 503 U.S. 1, 9 (1992). Therefore, "deliberate indifference to medical needs amounts to an Eighth Amendment violation only if those needs are 'serious.'" *Id.* The Ninth Circuit has defined a "serious medical need" in the following ways: failure to treat a prisoner's condition [that] could result in further significant injury or the unnecessary and wanton infliction of pain[;] ... [t]he existence of an injury that a reasonable doctor or patient would find important and worthy of comment or treatment; the presence of a medical condition that significantly affects an individual's daily activities; or the existence of chronic and substantial pain *McGuckin v. Smith*, 974 F.2d 1050, 1059–60 (9th Cir. 1992) (internal citations omitted), overruled on other grounds by *WMX Techs., Inc. v. Miller*, 104 F.3d 1133 (9th Cir. 1997) (en banc). As to the subjective standard, "deliberate indifference entails something more than mere negligence, ... [but] is satisfied by something less than acts or omissions for the very purpose of causing harm or with knowledge that harm will result." *Farmer*, 511 U.S. at 835. A prison official or prison medical provider acts with deliberate indifference "only if the [prison official or provider] knows of and disregards an excessive risk to inmate health and safety." *Gibson v. Cnty. of Washoe*, 290 F.3d 1175, 1187 (9th Cir. 2002) (internal quotation marks omitted), overruled on other grounds by *Castro v. Cty. of Los Angeles*, 833 F.3d 1060 (9th Cir. 2016) (en banc). "Under this standard, the prison official must not only 'be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists,' but that person 'must also draw the inference.'" *Toguchi v. Chung*, 391 F.3d 1051, 1057 (9th Cir. 2004) (quoting *Farmer*, 511 U.S. at 837). In the medical context, deliberate indifference can be "manifested by prison doctors in their response to the prisoner's needs or by

prison guards in intentionally denying or delaying access to medical care or intentionally interfering with the treatment once prescribed.” *Estelle*, 429 U.S. at 104–05 (footnotes omitted). That is, a delay in medical treatment can violate an inmate’s right to adequate prison medical care, but an inmate asserting an Eighth Amendment violation must establish that the delay caused further harm. *McGuckin*, 974 F.2d at 1060. Medical malpractice or negligence does not support a cause of action under the Eighth Amendment. *Broughton v. Cutter Labs.*, 622 F.2d 458, 460 (9th Cir. 1980) (per curiam). Additionally, there is no constitutional right to an outside medical provider of one’s own choice. See *Roberts v. Spalding*, 783 F.2d 867, 870 (9th Cir. 1986) (“A prison inmate has no independent constitutional right to outside medical care additional and supplemental to the medical care provided by the prison staff within the institution.”). “If a [jail official] should have been aware of the risk, but was not, then the [official] has not violated the Eighth Amendment, no matter how severe the risk.” *Gibson*, 290 F.3d at 1188. Moreover, even jail officials or medical providers who did know of a substantial risk to an inmate’s health will not be liable under § 1983 “if they responded reasonably to the risk, even if the harm ultimately was not averted.” *Farmer*, 511 U.S. at 844. If medical personnel have been “consistently responsive to [the inmate’s] medical needs,” and the plaintiff has not shown that the medical personnel had “subjective knowledge and conscious disregard of a substantial risk of serious injury,” there has been no Eighth Amendment violation. *Toguchi*, 391 F.3d at 1061. “There is not one proper way to practice medicine in a prison, but rather a range of acceptable courses based on prevailing standards in the field.” *Jackson v. Kotter*, 541 F.3d 688, 697 (7th Cir. 2008) (internal quotation marks omitted). Accordingly, mere differences in judgment as to appropriate medical diagnosis and treatment between an inmate and prison medical providers—or, for that matter, between medical providers—are not enough to establish a deliberate indifference claim. *Sanchez v. Vild*, 891 F.2d 240, 242 (9th Cir. 1989). “[T]o prevail on a claim involving choices between alternative courses of treatment, a prisoner must show that the chosen course of treatment ‘was medically unacceptable under the circumstances,’ and was chosen ‘in conscious disregard of an excessive risk’ to the prisoner’s health.” *Toguchi*, 391 F.3d at 1058 (alteration omitted) (quoting *Jackson v. McIntosh*, 90 F.3d 330, 332 (9th Cir. 1996)). Stated another way, a plaintiff must prove that medical providers chose one treatment over the plaintiff’s preferred treatment “even though they knew [the plaintiff’s preferred treatment] to be medically necessary based on [the plaintiff’s] records and prevailing medical standards.” *Norsworthy v. Beard*, 87 F. Supp. 3d 1104, 1117 (N.D. Cal. 2015). To violate the Eighth Amendment, the choice of treatment must have been “so inadequate that it demonstrated an absence of professional judgment, that is, that no minimally competent professional would have so responded under those circumstances.” *Collignon v. Milwaukee Cnty.*, 163 F.3d 982, 989 (7th Cir. 1998); see also *Lamb v. Norwood*, 899 F.3d 1159, 1162 (10th Cir. 2018) (“[P]rison officials do not act with deliberate indifference when they provide medical treatment even if it is subpar or different from what the inmate wants.”).

B. The Complaint Fails to State a Plausible Eighth Amendment Claim

The Complaint plausibly suggests, at most, that unidentified jail medical

personnel might have been negligent in failing to recognize that Plaintiff had a serious eye condition. This is insufficient to state a colorable claim under the Eighth Amendment. See *Farmer*, 511 U.S. at 835; *Broughton*, 622 F.2d at 460. As for Plaintiff's claims against the Ada County Medical Services, the allegations in the Complaint do not support a reasonable inference that Plaintiff's allegedly inadequate medical treatment was the result of a policy, custom, or practice of Ada County. Instead, the "obvious alternative explanation," *Iqbal*, 556 U.S. at 682 (internal quotation marks omitted), is that the jail medical providers exercised their independent medical judgment in determining that Plaintiff's eye problem was not serious and did not need further diagnosis. Plaintiff may attempt to remedy these deficiencies in an amended complaint.

4. Standards for Amended Complaint

If Plaintiff chooses to amend the Complaint, Plaintiff must demonstrate how the actions complained of have resulted in a deprivation of Plaintiff's constitutional rights. See *Ellis v. Cassidy*, 625 F.2d 227, 229 (9th Cir. 1980), abrogated on other grounds by *Kay v. Ehrler*, 499 U.S. 432 (1991). Plaintiff must also allege a sufficient causal connection between each defendant's actions and the claimed deprivation. *Taylor*, 880 F.2d at 1045; *Johnson v. Duffy*, 588 F.2d 740, 743 (9th Cir. 1978). "Vague and conclusory allegations of official participation in civil rights violations are not sufficient to withstand a motion to dismiss" or to survive screening under 28 U.S.C. §§ 1915 and 1915A. *Ivey v. Bd. of Regents of Univ. of Alaska*, 673 F.2d 266, 268 (9th Cir. 1982); see also *Iqbal*, 556 U.S. at 678 ("Nor does a complaint suffice if it tenders naked assertions devoid of further factual enhancement.") (internal quotation marks and alteration omitted). Rather, for each cause of action against each defendant, Plaintiff must state the following: (1) the name of the person or entity that caused the alleged deprivation of Plaintiff's constitutional rights; (2) facts showing the defendant is a state actor (such as state employment or a state contract) or a private entity performing a state function;

(3) the dates on which the conduct of the defendant allegedly took place; (4) the specific conduct or action Plaintiff alleges is unconstitutional; (5) the particular constitutional or statutory provision Plaintiff alleges has been violated; (6) facts alleging the elements of the violation are met—for example, Plaintiff must allege facts satisfying the elements of an Eighth Amendment claim; (7) the injury or damages Plaintiff personally suffered; and

(8) the particular type of relief Plaintiff is seeking from each defendant. In addition, Plaintiff must include facts showing Plaintiff can meet the Monell requirements, if applicable (explained above). Further, any amended complaint must contain all of Plaintiff's allegations in a single pleading and cannot rely upon, attach, or incorporate by reference other pleadings or documents. See *Forsyth v. Humana, Inc.*, 114 F.3d 1467, 1474 (9th Cir. 1997) ("[An] amended complaint supersedes the original, the latter being treated thereafter as non-existent."), overruled in part on other grounds by *Lacey v. Maricopa Cnty.*, 693 F.3d 896, (9th Cir. 2012) (en banc); *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1990) (holding that the district court erred by entering judgment against a party named in the initial complaint, but

not in the amended complaint). Plaintiff must set forth each different factual allegation in a separate, numbered paragraph. The amended complaint must be legibly written or typed in its entirety, and it should be clearly designated as the “Amended Complaint.” Plaintiff’s name and address should be clearly printed at the top left corner of the first page of each document filed with the Court. If Plaintiff files an amended complaint, Plaintiff must also file a “Motion to Review the Amended Complaint.” If Plaintiff does not amend within 28 days, or if the amendment does not comply with Rule 8, this case may be dismissed without further notice. See *Knapp v. Hogan*, 738 F.3d 1106, 1110 (9th Cir. 2013) (“When a litigant knowingly and repeatedly refuses to conform his pleadings to the requirements of the Federal Rules, it is reasonable to conclude that the litigant simply cannot state a claim.”).

ORDER

IT IS ORDERED:

1. The Complaint fails to state a claim upon which relief may be granted.

Plaintiff has 28 days within which to file an amended complaint as described above. If Plaintiff does so, Plaintiff must file (along with the amended complaint) a Motion to Review the Amended Complaint. Alternatively, Plaintiff may file a Notice of Voluntary Dismissal if Plaintiff no longer intends to pursue this case.!

2. If Plaintiff does not file a timely amended complaint, this case may be dismissed with prejudice and without further notice for failure to state a claim upon which relief may be granted, failure to prosecute, or failure to comply with a Court order. See 28 U.S.C. §§ 1915 and 1915A; Fed. R. Civ. P. 41(b).

3. Because an amended complaint is required for Plaintiff to proceed, Plaintiff's request for appointment of counsel (contained in the Complaint) is DENIED without prejudice. Plaintiff may renew the request for counsel in an amended complaint. oan DATED: December 5, 2025 Mesh Wave tf ix AY 8B. Lynn Winmill USS. District Court Judge ' A voluntary dismissal under Federal Rule of Civil Procedure 41(a)(1) is not a dismissal for frivolity, for maliciousness, or for failure to state a claim upon which relief may be granted and, therefore, does not count as a “strike” under 28 U.S.C. § 1915(g). *Spencer v. Barajas*, 140 F.4th 1061, 1066 (9th Cir. 2025).

INITIAL REVIEW ORDER BY SCREENING JUDGE - 13