

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

Jones v. Smalling, et al.

Jones · No. 2:24-cv-02742-EFB (PC) · Decided November 10, 2025

SUMMARY

The United States District Court for the Eastern District of California grants Kevin Lawrence Jones’s application to proceed in forma pauperis in his 42 U.S.C. § 1983 action. The court recommends dismissal without prejudice under *Heck v. Humphrey* because the claims challenging his criminal proceedings would imply the invalidity of his conviction or confinement. The matter is referred to a district judge, and the parties are given fourteen days to file objections.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 KEVIN LAWRENCE JONES, No. 2:24-cv-02742-EFB (PC) 12 Plaintiff, 13
v. ORDER AND FINDINGS AND RECOMMENDATIONS 14 PATRICK J. SMALLING, et al.,
15 Defendants. 16 17 Plaintiff is a state prisoner proceeding without counsel in an action brought
pursuant to 42 18 U.S.C. § 1983.

This proceeding was referred to this court by Local Rule 302 pursuant to 28 19 U.S.C. § 636(b)
(1). Plaintiff has also filed an application to proceed in forma pauperis. ECF 20 Nos. 2. 21 I.
Request to Proceed In Forma Pauperis 22 Plaintiff’s application makes the showing required by
28 U.S.C. § 1915(a)(1) and (2). 23 Accordingly, by separate order, the court directs the agency
having custody of plaintiff to collect 24 and forward the appropriate monthly payments for the
filing fee as set forth in 28 U.S.C. 25 § 1915(b)(1) and (2).

26 II. Screening Requirement and Standards 27 Federal courts must engage in a preliminary
screening of cases in which prisoners seek 28 redress from a governmental entity or officer or
employee of a governmental entity. 28 U.S.C. 1 § 1915A(a).

The court must identify cognizable claims or dismiss the complaint, or any portion 2 of the
complaint, if the complaint “is frivolous, malicious, or fails to state a claim upon which 3 relief
may be granted,” or “seeks monetary relief from a defendant who is immune from such 4 relief.”
Id. § 1915A(b). 5 This standard is echoed in 28 U.S.C. § 1915(e)(2), which requires that courts
dismiss a 6 case in which a plaintiff proceeds in forma pauperis at any time if it determines,
among other 7 things, that the action “is frivolous or malicious,” “fails to state a claim on which
relief may be 8 granted,” or “seeks monetary relief against a defendant who is immune from such
relief.” “[The] 9 term ‘frivolous,’ when applied to a complaint, embraces not only the inarguable

legal conclusion, 10 but also the fanciful factual allegation.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989) 11 (discussing the predecessor to modern § 1915(e)(2), former § 1915(d)).

Thus, § 1915(e)(2) 12 allows judges to dismiss a claim based on factual allegations that are clearly baseless, such as 13 facts describing “fantastic or delusional scenarios.” *Id.* at 327-38. 14 A pro se plaintiff, like other litigants, must satisfy the pleading requirements of Rule 8(a) 15 of the Federal Rules of Civil Procedure. Rule 8(a)(2) “requires a complaint to include a short and 16 plain statement of the claim showing that the pleader is entitled to relief, in order to give the 17 defendant fair notice of what the claim is and the grounds upon which it rests.” *Bell Atl.*

Corp. v. 18 *Twombly*, 550 U.S. 544, 554, 562-563 (2007) (citing *Conley v. Gibson*, 355 U.S. 41 (1957)). 19 While the complaint must comply with the “short and plain statement” requirements of Rule 8, 20 its allegations must also include the specificity required by *Twombly* and *Ashcroft v. Iqbal*, 556 21 U.S. 662, 679 (2009). 22 To avoid dismissal for failure to state a claim a complaint must contain more than “naked 23 assertions,” “labels and conclusions” or “a formulaic recitation of the elements of a cause of 24 action.” *Twombly*, 550 U.S. at 555-557.

In other words, “[t]hreadbare recitals of the elements of 25 a cause of action, supported by mere conclusory statements do not suffice.” *Iqbal*, 556 U.S. at 26 678. 27 Furthermore, a claim upon which the court can grant relief must have facial plausibility. 28 *Twombly*, 550 U.S. at 570. “A claim has facial plausibility when the plaintiff pleads factual 1 content that allows the court to draw the reasonable inference that the defendant is liable for the 2 misconduct alleged.” *Iqbal*, 556 U.S. at 678.

When considering whether a complaint states a 3 claim upon which relief can be granted, the court must accept the allegations as true, *Erickson v.* 4 *Pardus*, 551 U.S. 89 (2007), and construe the complaint in the light most favorable to the 5 plaintiff, see *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974). 6 III. Screening Order 7 Plaintiff alleges that, during his criminal trials, defendant Superior Court Judge Patrick 8 Smalling denied him a fair trial, defendant District Attorney Ashleigh Augustine sought his 9 conviction “based on race,” and defendant Public Defender Nickolas Evans rendered ineffective 10 assistance of counsel.

ECF No. 1 at 3. 11 In *Heck v. Humphrey*, 512 U.S. 477 (1994), and its progeny, the Supreme Court has held 12 that, where a judgment in a prisoner’s favor on § 1983 action would necessarily imply the 13 invalidity of the prisoner’s confinement, the prisoner’s claim is not cognizable until he 14 demonstrates that the sentence or conviction has been invalidated.

Heck, 512 U.S. at 483, 486-87. 15 Because it is clear from his complaint that plaintiff’s claims fall within the rule of *Heck*, this case 16 must be dismissed without prejudice to plaintiff bringing his claim in a petition for writ of habeas 17 corpus. 18 IV. Order and Recommendation 19

Accordingly, it is ORDERED that: 20 1. Plaintiff's request to proceed in forma pauperis (ECF Nos. 2) is granted.

21 2. Plaintiff shall pay the statutory filing fee of \$350. All payments shall be collected 22 in accordance with the notice to the Sacramento County Sheriff's Department filed 23 concurrently herewith. 24 3. The Clerk of Court randomly assign a district judge to this action. 25 It is further RECOMMENDED that the complaint be dismissed without prejudice and the Clerk 26 of Court directed to close the case.

27 These findings and recommendations are submitted to the United States District Judge 28 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days 1 | after being served with these findings and recommendations, any party may file written 2 || objections with the court and serve a copy on all parties. Such a document should be captioned 3 || "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections 4 | within the specified time may waive the right to appeal the District Court's order.

Turner v. 5 || Duncan, 158 F.3d 449, 455 (9th Cir. 1998); Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991). 6 7 || Dated: November 10, 2025 Za ihttin > Joe A 8 UNITED STATES MAGISTRATE JUDGE 9 10 1] 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28