

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

OPINION

Smalling

PER CURIAM.

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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

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