

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

Kincaid v. CDCR

No. 2:25-cv-1705-JDP (P) (E.D. Cal. July 15, 2025) · No. 2:25-cv-1705-JDP (P) · Decided July 15, 2025

SUMMARY

The United States District Court for the Eastern District of California dismissed Tai T. Kincaid's complaint against the California Department of Corrections and Rehabilitation concerning injuries allegedly sustained when a golf cart tipped during prison transportation. The court held that CDCR is immune from suit under the Eleventh Amendment and that the state-law negligence claim could not proceed because the parties were not diverse. The court granted in forma pauperis status and leave to amend within thirty days.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 TAI T. KINCAID, Case No. 2:25-cv-1705-JDP (P) 12 Plaintiff, 13 v.
ORDER 14 CDCR, 15 Defendant. 16 17 18 Plaintiff, a state prisoner proceeding pro se, brings
this § 1983 action against CDCR for 19 injuries he sustained when he was ejected from a golf cart
while being transported around the 20 prison.

ECF No. 1. The allegations fail to state a claim. Plaintiff may, if he chooses, file an 21 amended
complaint that addresses the deficiencies noted herein. I will grant plaintiff's 22 application to
proceed in forma pauperis. ECF No. 2. 23 Screening and Pleading Requirements 24 A federal
court must screen the complaint of any claimant seeking permission to proceed 25 in forma
pauperis.

See 28 U.S.C. § 1915(e). The court must identify any cognizable claims and 26 dismiss any
portion of the complaint that is frivolous or malicious, fails to state a claim upon 27 which relief
may be granted, or seeks monetary relief from a defendant who is immune from such 28 relief. Id.
1 A complaint must contain a short and plain statement that plaintiff is entitled to relief, 2 Fed.

R. Civ. P. 8(a)(2), and provide "enough facts to state a claim to relief that is plausible on its 3
face," Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007). The plausibility standard does not 4
require detailed allegations, but legal conclusions do not suffice. See Ashcroft v. Iqbal, 556 U.S. 5
662, 678 (2009). If the allegations "do not permit the court to infer more than the mere 6
possibility of misconduct," the complaint states no claim.

Id. at 679. The complaint need not identify “a precise legal theory.” *Kobold v. Good Samaritan Reg’l Med. Ctr.*, 832 F.3d 1024, 1038 (9th Cir. 2016). Instead, what plaintiff must state is a “claim”—a set of “allegations that give rise to an enforceable right to relief.” *Nagrampa v. MailCoups, Inc.*, 469 F.3d 1257, 1264 n.2 (9th Cir. 2006) (en banc) (citations omitted).

The court must construe a pro se litigant’s complaint liberally. See *Haines v. Kerner*, 404 U.S. 519, 520 (1972) (per curiam). The court may dismiss a pro se litigant’s complaint “if it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.” *Hayes v. Idaho Corr. Ctr.*, 849 F.3d 1204, 1208 (9th Cir.

2017). However, “a liberal interpretation of a civil rights complaint may not supply essential elements of the claim that were not initially pled.” *Bruns v. Nat’l Credit Union Admin.*, 122 F.3d 1251, 1257 (9th Cir. 1997) (quoting *Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982)). Plaintiff alleges that on August 17, 2023, he was in a golf cart being transported from New Folsom State Prison to Old Folsom State Prison when the cart tipped and ejected him.

ECF No. 1 at 3. Plaintiff suffered injury to his neck, spine, and right hip. Id. Plaintiff purports to bring a negligence claim against defendant CDCR. Id. The complaint fails to state a claim for two main reasons.

First, the only named defendant is CDCR. However, CDCR is not a proper defendant because it is a state agency that is immune from suit under the Eleventh Amendment. See *Will v. Michigan Dep’t of State Police*, 491 U.S. 58, 66 (1989); *Lucas v. Dep’t of Corr.*, 66 F.3d 245, 248 (9th Cir. 1995) (per curiam) (holding that prisoner’s Eighth Amendment claims against CDCR for damages and injunctive relief were barred by Eleventh Amendment immunity); *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 100 (1984) (explaining that Eleventh Amendment immunity extends to state agencies).

Second, plaintiff only asserts a state law claim for negligence. Therefore, this court’s jurisdiction depends on diversity jurisdiction. See 28 U.S.C. §§ 1331, 1332; see also *Rainero v. Archon 4 Corp.*, 844 F.3d 832, 839 (9th Cir. 2016) (“For a federal court to exercise diversity jurisdiction under § 1332(a), the amount in controversy must exceed \$75,000, and the parties must be citizens of different states.”).

Diversity jurisdiction exists in all civil actions in which there is complete diversity of citizenship of the parties and the amount in controversy exceeds \$75,000. 28 U.S.C. § 1332. Because plaintiff and defendant are not diverse, this court lacks jurisdiction over plaintiff’s claim. Accordingly, plaintiff’s complaint is dismissed for failure to state a claim.

I will allow plaintiff a chance to amend his complaint before recommending that this action be dismissed. If plaintiff decides to file an amended complaint, the amended complaint will

supersede the current 13 one. See *Lacey v. Maricopa Cnty.*, 693 F.3d 896, 907 n.1 (9th Cir. 2012) (en banc). This means 14 that the amended complaint will need to be complete on its face without reference to the prior 15 pleading.

See E.D. Cal. Local Rule 220. Once an amended complaint is filed, the current one no 16 longer serves any function. Therefore, in an amended complaint, as in the original, plaintiff will 17 need to assert each claim and allege each defendant's involvement in sufficient detail.

The 18 amended complaint should be titled "First Amended Complaint" and refer to the appropriate case 19 number. If plaintiff does not file an amended complaint, I will recommend that this action be 20 dismissed. 21 Accordingly, it is hereby ORDERED that: 22 1. Plaintiff's request for leave to proceed in forma pauperis, ECF No. 2, is GRANTED. 23 2. Plaintiff's complaint, ECF No. 1, is DISMISSED with leave to amend.

24 3. Within thirty days from service of this order, plaintiff shall file either (1) an amended 25 complaint or (2) notice of voluntary dismissal of this action without prejudice. 26 4. Failure to timely file either an amended complaint or notice of voluntary dismissal may 27 result in the imposition of sanctions, including a recommendation that this action be dismissed 28 with prejudice pursuant to Federal Rule of Civil Procedure 41(b).

1 5. The Clerk of Court shall send plaintiff a complaint form with this order. 2 3 IT IS SO ORDERED. 4 (_ Dated: _ July 15, 2025 q—— 5 JEREMY D. PETERSON 6 UNITED STATES MAGISTRATE JUDGE 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28