

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

Mario Patino v. D. Dominguez, et al.

Case No. 3:25-cv-0589-BAS-KSC (S.D. Cal. Feb. 4, 2026) · No. 3:25-cv-0589-BAS-KSC · Decided February
4, 2026

OPINION

MARIO PATINO v. D. DOMINGUEZ, et al.

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 MARIO PATINO, Case No.: 3:25-cv-0589-BAS-KSC

CDCR #F05346,

12

ORDER DISMISSING FIRST

Plaintiff,

13 AMENDED COMPLAINT FOR

vs. FAILURE TO COMPLY WITH

14

FEDERAL RULES OF CIVIL

15 PROCEDURE 8(a) and 10 AND

D. DOMINGUEZ, et al., FOR FAILURE STATE A CLAIM

16 Defendants. PURSUANT TO 28 U.S.C. 17 §§ 1915(e)(2)(B) AND 1915A(b) 18

19 BACKGROUND

20 Mario Patino (“Patino” or “Plaintiff”), a prisoner currently confined at Centinela 21 State
Prison (“CEN”), is proceeding pro se with a civil action pursuant to 42 U.S.C. 22 § 1983.1 This
Court screened Patino’s original complaint and dismissed it for failure to 23 state a claim. (ECF
No. 13.) The Court granted Plaintiff leave to amend his pleading and, 24 after two extensions of
time (ECF Nos. 15, 17), Patino has filed a First Amended 25 26 1 This case was originally filed in
the United States District Court for the Central District of California on

27 November 22, 2024. (See ECF No. 1.) That court granted Plaintiff’s motion to proceed in
forma pauperis

(“IFP”) on January 24, 2025. (ECF No. 6.) On March 10, 2025, however, that court found venue
was 28 1 Complaint. (ECF No. 18.) For the reasons discussed below, the Court DISMISSES the 2
FAC without prejudice.

3 SCREENING PURSUANT TO 28 U.S.C. § 1915(e) AND § 1915A(b)

4 A. Legal Standard 5 As with his original complaint, because Plaintiff is proceeding IFP, the Court must 6 screen his FAC and sua sponte dismiss it pursuant to 28 U.S.C. § 1915(e)(2)(B) and 7 § 1915A(b), to the extent it is frivolous, malicious, fails to state a claim, or seeks damages 8 from defendants who are immune. See *Rhodes v. Robinson*, 621 F.3d 1002, 1004 (9th Cir. 9 2010). “The standard for determining whether Plaintiff has failed to state a claim upon 10 which relief can be granted under § 1915(e)(2)(B)(ii) is the same as the Federal Rule of 11 Civil Procedure 12(b)(6) standard for failure to state a claim.” *Watison v. Carter*, 668 F.3d 12 1108, 1112 (9th Cir. 2012). Rule 12(b)(6) requires that a complaint to “contain sufficient 13 factual matter . . . to state a claim to relief that is plausible on its face.” *Ashcroft v. Iqbal*, 14 556 U.S. 662, 678 (2009) (internal quotation marks omitted). While detailed factual 15 allegations are not required, “[t]hreadbare recitals of the elements of a cause of action, 16 supported by mere conclusory statements, do not suffice” to state a claim. *Id.* The “mere 17 possibility of misconduct” or “unadorned, the defendant-unlawfully-harmed me 18 accusation[s]” fall short of meeting this plausibility standard. *Id.* 19 B. Allegations in Plaintiff’s FAC 20 Patino alleges very few facts in his FAC. He states that on October 18, 2023, a 21 correctional officer “removed [his] religious necklace” without a “valid or security 22 justification.” (ECF No. 18 at 2.) He states the necklace holds significant religious meaning 23 for him and is “a required article of faith” for his religious beliefs. *Id.* 24 Patino claims that the removal of his necklace was in violation of his rights under 25 the First Amendment, the Religious Land Use and Institutionalized Persons Act 26 (“RLUIPA”), and California state regulations. (*Id.* at 2–3.) He seeks a declaratory 27 judgment, an injunction ordering the return of his necklace, and unspecified compensatory 28 and punitive damages. (*Id.* at 5.) 1 C. Discussion 2 1. Federal Rules of Civil Procedure 8 and 10 3 The FAC must be dismissed for failure to comply with Federal Rules of Civil

4 Procedure 8 and 10. First, Rule 8(a) of the Federal Rules requires that each complaint filed 5 in federal court contain a “short and plain statement of the claim showing that the pleader 6 is entitled to relief.” Fed. R. Civ. P. 8(a)(2). As noted above, detailed factual allegations 7 are not required but, at a minimum, a complaint must allege enough specific facts to 8 provide both “fair notice” of the particular claim being asserted and “the grounds upon 9 which [that claim] rests.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 & n.3 (2007) 10 (citation and quotation marks omitted); see also *Iqbal*, 556 U.S. at 678 (2009) (stating that 11 the Rule 8 pleading standard “demands more than an unadorned, the-defendant- 12 unlawfully-harmed-me accusation”). The purpose of Rule 8(a) is to ensure that a complaint 13 “fully sets forth who is being sued, for what relief, and on what theory, with enough detail 14 to guide discovery.” *McHenry v. Renne*, 84 F.3d 1172, 1177 (9th Cir. 1996). 15 Here, Plaintiff’s FAC violates Rule 8 because it fails to give any defendant adequate 16 notice of the claims against them. As noted above, Plaintiff purports to assert three claims. 17 (See ECF No. 18 at 2–3.) However, no names are mentioned in the factual summary or in 18 the section where Plaintiff sets forth these three claims. Indeed, no name is mentioned in 19 the body of the FAC. (See *id.*) The FAC’s caption lists only “D. Dominguez, et al.

20 DEFENDANTS.” (Id. at 1.) And in the section of the FAC entitled “Parties,” Plaintiff 21 merely states “Defendants are prison officials and/or employees of Centinela state Prison 22 who were responsible for or directly involved in the removal and withholding of Plaintiff’s 23 religious necklace.” (Id. at 2.) Without a clear indication as to which defendants are being 24 sued on which respective grounds, as well as specific allegations showing what each 25 Defendant did to violate Plaintiff’s rights, Plaintiff cannot proceed in this action. As stated 26 in this Court’s order dismissing the original complaint, an amended complaint “must be 27 complete by itself without reference to previous pleadings.” (ECF No. 13 at 7 (citing S.D. 28 Cal. CivLR 15.1; *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1 1546 (9th Cir. 1989) (“[A]n amended pleading supersedes the original.”))). 2 In addition, the FAC also violates Rule 10(a), which provides that the “[t]he title of 3 the complaint must name all the parties.” Fed. R. Civ. P. 10(a). Here, the caption/title of 4 the FAC includes only one name, “D. Dominguez,” followed by “et al.” (ECF No. 18 at 5 1.) This does not satisfy Rule 10(a). See *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–63 (9th

6 Cir. 1992). To the extent Plaintiff may presume the Court will infer the “et al.” in the FAC’s

7 caption references the other defendants named in the original complaint, it may not do so.

8 Id. at 1262 (stating a federal court is precluded from referencing an original complaint

9 which contained a caption listing other defendants because the amended pleading 10 supersedes the original) (citing *Hal Roach Studios*, 896 F.2d at 1546 (“The fact that a party 11 was named in the original complaint is irrelevant; an amended pleading supersedes the 12 original.”))). 13 Thus,

because Plaintiff has failed to comply with Federal Rules of Civil Procedure 14 8(a)(2) and 10(a), the FAC must be dismissed. See 28 U.S.C. §§ 1915(e)(2)(B) and 15 1915A(b). 16 2. Dominguez

17 In addition, the Court notes that to the extent the FAC lists “D. Dominguez” as a 18 defendant in the caption, Plaintiff fails to state a claim against him because, as noted above, 19 he has failed to allege any specific facts as to conduct by Dominguez in the body of the 20 FAC. To state a plausible claim against any defendant, Plaintiff must demonstrate that each 21 defendant personally participated in the deprivation of his rights. *Jones v. Williams*, 297 22 F.3d 930, 934 (9th Cir. 2002). This requires the presentation of factual allegations as to 23 each defendant sufficient to state a plausible claim. *Iqbal*, 556 U.S. at 678–79. A person 24 may be liable under § 1983 for an affirmative act, participation in another’s affirmative 25 acts, or omission of an act that he is legally required to do, causing the deprivation of a 26 constitutional right. *Johnson v. Duffy*, 588 F.2d 740, 743 (9th Cir. 1978) (citation omitted). 27 D. Leave to Amend 28 1 In light of the above and Plaintiff’s pro se status, the Court grants Plaintiff to amend 2 || his pleading and address the deficiencies identified above. See *Rosati v. Igbinoso*, 791 F.3d 3 || 1037, 1039 (9th Cir. 2015) (“A district court should not dismiss a pro se complaint without 4 || leave to amend unless it is absolutely clear that the deficiencies of the complaint could not 5 || be cured by amendment.”) (quoting *Akhtar v. Mesa*, 698 F.3d 1202, 1212 (9th Cir. 2012)).

6 CONCLUSION AND ORDER

7 For above reasons, the Court: 8 I. DISMISSES Plaintiff's First Amended Complaint (ECF No. 18) in its 9 entirety for failure to comply with Federal Rules of Civil Procedure 8(a) and 10 10(a), and for failure to state a claim pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A(b). 11 2. GRANTS Plaintiff forty-five (45) days leave from the date of this Order in 12 which to file a Second Amended Complaint which cures the pleading deficiencies 13 discussed above. Plaintiff's Second Amended Complaint must be complete by itself 14 without reference to his previous pleadings. See S.D. Cal. CivLR 15.1; *Hal Roach Studios, Inc.*, 896 F.2d at 1546 (“[A]n amended pleading supersedes the original.”). The Second 16 Amended Complaint must also list the names of all Defendants Plaintiff means to sue in 17 the proper space in the caption of the pleading. See *Ferdik*, 963 F.2d at 1260-61. 18 If Plaintiff fails to timely file a Second Amended Complaint, the Court will enter a 19 final Order dismissing this civil action based both on failure to state a claim upon which 20 relief can be granted pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(i) and 1915A(b)(1), and 21 failure to prosecute in compliance with a court order requiring amendment. See *Lira v. Herrera*, 427 F.3d 1164, 1169 (9th Cir. 2005) (“If a plaintiff does not take advantage of 23 opportunity to fix his complaint, a district court may convert the dismissal of the 24 complaint into dismissal of the entire action.”). 25 IT IS SO ORDERED. 26 27 DATED: February 4, 2026 (yi. Dwhark 28 H n. Cynthia Bashant, Chief Judge . United States District Court