

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Dimitri Z. Storm v. Gavin Newsom, et al.

Storm v. Newsom · No. 1:24-cv-00743-JLT-SKO · Decided July 24, 2025

OPINION

(PC) Storm v. Newsom

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 DIMITRI Z. STORM, Case No.: 1:24-cv-00743-JLT-SKO 12 Plaintiff, FINDINGS AND
RECOMMENDATIONS TO

DISMISS ACTION FOR A FAILURE TO

13 v. STATE A CLAIM UPON WHICH RELIEF

CAN BE GRANTED FOLLOWING

14 GAVIN NEWSOM, et al., SCREENING OF THE FIRST AMENDED

COMPLAINT

15 Defendants. (Doc. 16) 16

14-DAY OBJECTION DEADLINE

17 18 19 Plaintiff Dimitri Z. Storm is proceeding pro se and in forma pauperis in this civil rights
20 action.

21 I. INTRODUCTION

22 On October 8, 2024, the Court issued its First Screening Order. (Doc. 15.) It determined 23
Plaintiff's original complaint violated Rule 8 of the Federal Rules of Civil Procedure and failed to
24 state a claim upon which relief could be granted. (Id. at 5-6, 8.) Plaintiff was provided with
legal 25 standards potentially applicable to his claims (id. at 6-7), and ordered Plaintiff to file a
first 26 amended complaint curing the deficiencies identified in the order, or a notice of voluntary
27 dismissal, within 21 days (id. at 8-9). Plaintiff filed a first amended complaint on October 30,

1 II. SCREENING REQUIREMENT

2 The Court is required to screen complaints brought by prisoners seeking relief against a 3
governmental entity or an officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). 4
The Court must dismiss a complaint or portion thereof if the complaint is frivolous or malicious, 5
fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant
6 who is immune from such relief. 28 U.S.C. § 1915A(b). The Court should dismiss a complaint if
7 it lacks a cognizable legal theory or fails to allege sufficient facts to support a cognizable legal 8

theory. See *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1990).

9 III. PLEADING REQUIREMENTS

10 A. Federal Rule of Civil Procedure 8(a) 11 “Rule 8(a)’s simplified pleading standard applies to all civil actions, with limited 12 exceptions.” *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 513 (2002). A complaint must contain 13 “a short and plain statement of the claims showing that the pleader is entitled to relief.” Fed. R. 14 Civ. P. 8(a)(2). “Such a statement must simply give the defendant fair notice of what the 15 plaintiff’s claim is and the grounds upon which it rests.” *Swierkiewicz*, 534 U.S. at 512 (internal 16 quotation marks & citation omitted). 17 Detailed factual allegations are not required, but “[t]hreadbare recitals of the elements of a 18 cause of action, supported by mere conclusory statements, do not suffice.” *Ashcroft v. Iqbal*, 556 19 U.S. 662, 678 (2009) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). Plaintiff must 20 set forth “sufficient factual matter, accepted as true, to ‘state a claim that is plausible on its face.’” 21 *Id.* (quoting *Twombly*, 550 U.S. at 570). Factual allegations are accepted as true, but legal 22 conclusions are not. *Id.* (citing *Twombly*, 550 U.S. at 555). 23 The Court construes pleadings of pro se prisoners liberally and affords them the benefit of 24 any doubt. *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010) (citation omitted). However, “the 25 liberal pleading standard . . . applies only to a plaintiff’s factual allegations,” not his legal 26 theories. *Neitzke v. Williams*, 490 U.S. 319, 330 n.9 (1989). Furthermore, “a liberal interpretation 27 of a civil rights complaint may not supply essential elements of the claim that were not initially 1 quotation marks & citation omitted), and courts “are not required to indulge unwarranted 2 inferences.” *Doe I v. Wal-Mart Stores, Inc.*, 572 F.3d 677, 681 (9th Cir. 2009) (internal quotation 3 marks & citation omitted). The “sheer possibility that a defendant has acted unlawfully” is not 4 sufficient to state a cognizable claim, and “facts that are merely consistent with a defendant’s 5 liability” fall short. *Iqbal*, 556 U.S. at 678 (internal quotation marks & citation omitted). 6 B. Linkage and Causation

7 Section 1983 provides a cause of action for the violation of constitutional or other federal 8 rights by persons acting under color of state law. See 42 U.S.C. § 1983. To state a claim under 9 section 1983, a plaintiff must show a causal connection or link between the actions of the 10 defendants and the deprivation alleged to have been suffered by the plaintiff. See *Rizzo v. Goode*, 11 423 U.S. 362, 373-75 (1976). The Ninth Circuit has held that “[a] person ‘subjects’ another to the 12 deprivation of a constitutional right, within the meaning of section 1983, if he does an affirmative 13 act, participates in another’s affirmative acts, or omits to perform an act which he is legal required 14 to do that causes the deprivation of which complaint is made.” *Johnson v. Duffy*, 588 F.2d 740, 15 743 (9th Cir. 1978) (citation omitted). 16 C. Supervisory Liability 17 Liability may not be imposed on supervisory personnel for the actions or omissions of 18 their subordinates under the theory of respondeat superior. *Iqbal*, 556 U.S. at 676-77; see e.g., 19 *Simmons v. Navajo Cty., Ariz.*, 609 F.3d 1011, 1020-21 (9th Cir. 2010) (plaintiff required to 20 adduce evidence the named supervisory defendants “themselves acted or failed to act 21 unconstitutionally, not merely that subordinate did”), overruled on other grounds by *Castro v. 22 C’nty of Los Angeles*, 833 F.3d

1060, 1070 (9th Cir. 2016); *Jones v. Williams*, 297 F.3d 930, 934 23 (9th Cir. 2002) (“In order for a person acting under color of state law to be liable under section 24 1983 there must be a showing of personal participation in the alleged rights deprivation: there is 25 no respondeat superior liability under section 1983”). 26 Supervisors may be held liable only if they “participated in or directed the violations, or 27 knew of the violations and failed to act to prevent them.” *Taylor v. List*, 880 F.2d 1040, 1045 (9th 1 ‘series of acts by others which the actor knows or reasonably should know would cause others to 2 inflict’ constitutional harms.” *Corales v. Bennett*, 567 F.3d 554, 570 (9th Cir. 2009). Accord 3 *Starr v. Baca*, 652 F.3d 1202, 1205-06 (9th Cir. 2011) (supervisory liability may be based on 4 inaction in the training and supervision of subordinates). 5 Supervisory liability may also exist without any personal participation if the official 6 implemented “a policy so deficient that the policy itself is a repudiation of the constitutional 7 rights and is the moving force of the constitutional violation.” *Redman v. Cty. of San Diego*, 942 8 F.2d 1435, 1446 (9th Cir. 1991) (citations & quotations marks omitted), abrogated on other 9 grounds by *Farmer v. Brennan*, 511 U.S. 825 (1970). 10 To prove liability for an action or policy, the plaintiff “must ... demonstrate that his 11 deprivation resulted from an official policy or custom established by a ... policymaker possessed 12 with final authority to establish that policy.” *Waggy v. Spokane County Washington*, 594 F.3d 13 707, 713 (9th Cir.2010). When a defendant holds a supervisory position, the causal link between 14 such defendant and the claimed constitutional violation must be specifically alleged. See *Fayle v. 15 Stapley*, 607 F.2d 858, 862 (9th Cir. 1979). Vague and conclusory allegations concerning the 16 involvement of supervisory personnel in civil rights violations are not sufficient. See *Ivey v. 17 Board of Regents*, 673 F.2d 266, 268 (9th Cir. 1982).

18 IV. DISCUSSION

19 A. Plaintiff’s First Amended Complaint 20 Plaintiff identifies the following individuals as defendants: 21 Officer Rios, California Substance Abuse Treatment Facility (CSATF) 22 Officer Bonilla, CSATF 23 Warden, CSATF 24 California Governor Gavin Newsom 25 California Attorney General Robert Bonta 26 (Doc. 16 at 2-3.) Plaintiff seeks \$50,000, the return of his property, the retention of camera 27 footage, and unspecified injunctive relief. (Id. at 4.) 1 B. Plaintiff’s Claim 2 Plaintiff presents a single claim titled “Federal Constitutional Rights of (1st, 5th, 14th, 3 11th, 8th, 6th) Amendment Rights.” (Doc. 16 at 3.) 4 The facts alleged in support of Plaintiff’s claim are quoted in their entirety: 5 On or about June 11, 2024, my constitutional rights of (1st, 5th, 14th, 11th, 8th, 6th) Amendment rights were violated – personal 6 legal/confidential mail was stolen including mail/documents sent by (The Department of Homeland Security [DHS]), (Federal Bureau of 7 Investigations [FBI]), (Central Intelligence Agency [CIA]), the Defense Intelligence Agency [DIA]), the Department of Defense 8 [DOD]), (NARA-Documents-Presidential Executive Order 13526 [NARA]), (FBI-File on Donald J. Trump [FBI]), (NARA Report on 9 INOCONUS-Nuclear Bomb Detonation in America-via-the Navy War College [NACA]), (US Department of Justice FILES- 10 Concerning FISA-Phone-Wire-Taps-of-Kamala-

Harris-via-DOJ National Security Branch [DOJ]), (U.S. Attorney General- 11 Document-Files [AG-DOJ]), (Presidential Executive Order-via-The National Security Agency [NSA]) 12 13 (Id.) 14 C. Plaintiff's First Amended Complaint Violates Rule 8 15 As Plaintiff was previously advised (see Doc. 15 at 5-6), Rule 8 of the Federal Rules of 16 Civil Procedure states that a complaint must contain "a short and plain statement of the claim 17 showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a). Detailed factual allegations are 18 not required, but "[t]hreadbare recitals of the elements of a cause of action, supported by mere 19 conclusory statements, do not suffice." *Iqbal*, 556 U.S. at 678. Plaintiff must set forth "sufficient 20 factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" Id. While 21 factual allegations are accepted as true, legal conclusions are not. Id.; see also *Twombly*, 550 U.S. 22 at 556-57. 23 Plaintiff's first amended complaint is not a plain statement of his claims. Plaintiff again 24 simply provides a date upon which a bevy of his constitutional rights were purportedly violated. 25 He does not explain what action (or inaction) each named defendant took (or did not take) that 26 violate his constitutional rights. Despite having been advised that he "must state what each named 27 defendant did that led to the deprivation of" his constitutional rights (see Doc. 15 at 8), Plaintiff 1 how his rights were violated. Plaintiff simply provides a list of federal agencies who purportedly 2 provided documents to him in the past. As the Supreme Court has stated, the "sheer possibility 3 that a defendant acted unlawfully" is insufficient to state a cognizable claim, and "facts that are 4 merely consistent with a defendant's liability" fall short. *Iqbal*, 556 U.S. at 678 (internal 5 quotation marks & citation omitted). Even liberally construed, Plaintiff's first amended complaint 6 offers nothing more than a sheer possibility that any named defendant is liable. 7 Thus, Plaintiff's first amended complaint fails to set forth sufficient factual matter to state 8 a claim upon which relief can be granted. Fed. R. Civ. P. 8. 9 D. Plaintiff Failed to Cure the Deficiencies Previously Identified 10 In its earlier screening order, Plaintiff was provided the legal standards applicable to 11 claims involving violations of the First Amendment right to send and receive mail and due 12 process arising under the Fourteenth Amendment. (See Doc. 15 at 6-7.) Plaintiff has made no 13 effort to apply the relevant legal standards to his claims. 14 Plaintiff provides no facts to establish how his constitutional right to receive mail was 15 violated, he fails to allege that any such failure was not reasonably related to a legitimate 16 penological interest, and he provides no information to establish that any named defendant acted 17 with an improper motive or interfered with his rights to access the courts or counsel. *Turner*, 482 18 U.S. at 89; *Procunier*, 416 U.S. at 413; *Smith* 899 F.3d at 944; *Witherow*, 52 F.3d at 265. Plaintiff 19 also offers no facts to explain how his due process rights were violated, and even assuming any 20 deprivation of his property was intentional, the Court cannot determine whether the deprivation 21 was authorized or unauthorized--in the absence of any facts. Plaintiff does not explain how any 22 named defendant, Officers Bonilla and Rios, the CSATF warden, Governor Newsom, or Attorney 23 General Bonta, violated his First Amendment rights to send and receive mail or violated his due 24 process rights under the Fourteenth Amendment. *Rizzo*, 423 U.S. at 373-75; *Johnson*, 588 F.2d at 25 743. In

sum, Plaintiff fails to state any claim upon which relief can be granted. 26 Moreover, because Plaintiff's first amended complaint is deficient for the same reasons as 27 those articulated in the Court's original screening order (Doc. 15 at 5-8), and because Plaintiff has 1 and that leave to amend would be futile. See *Hartman v. CDCR*, 707 F.3d 1114, 1129-30 (9th Cir. 2 2013) (affirming dismissal of first amended complaint and finding leave to amend futile where 3 complaint's allegations belied plaintiff's entitlement to relief).

4 V. CONCLUSION AND RECOMMENDATION

5 Accordingly, for the foregoing reasons, the Court HEREBY RECOMMENDS this 6 action be DISMISSED for Plaintiff's failure to state a claim upon which relief can be granted. 7 These Findings and Recommendations will be submitted to the United States District 8 Judge assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days 9 after being served with a copy of these Findings and Recommendations, a party may file written 10 objections with the Court. Local Rule 304(b). The document should be captioned, "Objections to 11 Magistrate Judge's Findings and Recommendations" and shall not exceed fifteen (15) pages 12 without leave of Court and good cause shown. The Court will not consider exhibits attached to 13 the Objections. To the extent a party wishes to refer to any exhibit(s), the party should reference 14 the exhibit in the record by its CM/ECF document and page number, when possible, or otherwise 15 reference the exhibit with specificity. Any pages filed in excess of the fifteen (15) page limitation 16 may be disregarded by the District Judge when reviewing these Findings and Recommendations 17 under 28 U.S.C. § 636(b)(1)(C). A party's failure to file any objections within the specified time 18 may result in the waiver of certain rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 19 (9th Cir. 2014). 20 IT IS SO ORDERED. 21 22 Dated: July 24, 2025 /s/ Sheila K. Oberto .

UNITED STATES MAGISTRATE JUDGE

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