

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

Sean L. Casey, II v. Jeff Lynch, et al.

No. 2:24-cv-01316-EFB (PC) · No. No. 2:24-cv-01316-EFB (PC) · Decided May 13, 2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 SEAN L. CASEY, II, No. 2:24-cv-01316-EFB (PC) 12 Plaintiff, 13 v.
ORDER 14 JEFF LYNCH, et al., 15 Defendant. 16 17 Plaintiff is a state prisoner proceeding
without counsel in an action brought under 42 18 U.S.C. § 1983.

In addition to filing a complaint, plaintiff has filed an application to proceed in 19 forma pauperis
pursuant to 28 U.S.C. § 1915. ECF No. 6. 20 Leave to Proceed In Forma Pauperis 21 Plaintiff's
application makes the showing required by 28 U.S.C. § 1915(a)(1) and (2). 22 Accordingly, by
separate order, the court directs the agency having custody of plaintiff to collect 23 and forward
the appropriate monthly payments for the filing fee as set forth in 28 U.S.C. § 24 1915(b)(1) and
(2).

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

The court must identify cognizable claims or dismiss the complaint, or any portion 1 of the
complaint, if the complaint “is frivolous, malicious, or fails to state a claim upon which 2 relief
may be granted,” or “seeks monetary relief from a defendant who is immune from such 3 relief.”
Id. § 1915A(b). 4 A pro se plaintiff, like other litigants, must satisfy the pleading requirements of
Rule 8(a) 5 of the Federal Rules of Civil Procedure.

Rule 8(a)(2) “requires a complaint to include a short and 6 plain statement of the claim showing
that the pleader is entitled to relief, in order to give the 7 defendant fair notice of what the claim is
and the grounds upon which it rests.” Bell Atl. Corp. v. 8 Twombly, 550 U.S. 544, 554, 562-563
(2007) (citing Conley v. Gibson, 355 U.S. 41 (1957)). 9 While the complaint must comply with
the “short and plain statement” requirements of Rule 8, 10 its allegations must also include the
specificity required by Twombly and Ashcroft v. Iqbal, 556 11 U.S. 662, 679 (2009).

12 To avoid dismissal for failure to state a claim a complaint must contain more than “naked 13
assertions,” “labels and conclusions” or “a formulaic recitation of the elements of a cause of 14
action.” Twombly, 550 U.S. at 555-557.

In other words, “[t]hreadbare recitals of the elements of 15 a cause of action, supported by mere conclusory statements do not suffice.” *Iqbal*, 556 U.S. at 16 678. 17 Furthermore, a claim upon which the court can grant relief must have facial plausibility. 18 *Twombly*, 550 U.S. at 570. “A claim has facial plausibility when the plaintiff pleads factual 19 content that allows the court to draw the reasonable inference that the defendant is liable for the 20 misconduct alleged.” *Iqbal*, 556 U.S. at 678.

When considering whether a complaint states a 21 claim upon which relief can be granted, the court must accept the allegations as true, *Erickson v. 22 Pardus*, 551 U.S. 89 (2007), and construe the complaint in the light most favorable to the 23 plaintiff, see *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974). 24 Screening Order 25 Plaintiff claims that, on March 8, 2024, while he was working a prison job, defendant 26 Correctional Officer Rojas told him to “go sit the f**k down somewhere.” ECF No. 1 at 3.

A co- 27 worker continued to work without “harassment.” *Id.* Plaintiff asked unidentified correctional 28 officers in “CTC1” that he “not be strictly scrutinized and harassed while working.” *Id.* 1 The next day, defendant Correctional Officer Igbokwe “retaliated” against plaintiff by 2 refusing to allow him to work, saying, “I don’t want you here.” *Id.* Plaintiff had not been found 3 guilty of any policy violation that would justify his removal from his job, but Igbokwe lied and 4 said that plaintiff had made the women in CTC1 uncomfortable.

Id. 5 These allegations do not state a cognizable claim for violation of the U.S. Constitution. 6 There is no constitutional right to a prison job. *Vignolo v. Miller*, 120 F.3d 1075, 1077 (9th Cir. 7 1997). At-will government employees can be fired based on mistaken or unreasonable 8 information, and there is no claim based solely on being treated worse than other similarly- 9 situated employees.

Engquist v. Or. Dep’t of Agric., 553 U.S. 591, 606-08 (2008). 10 Being fired from a prison job may form part of a claim of retaliation in violation of the 11 First Amendment, however, where the elements of such a claim are satisfied.

To state a claim for 12 retaliation in violation of the First Amendment, a prisoner must allege facts showing five 13 elements: (1) that a state actor took some adverse action against him (2) because of (3) his 14 protected conduct, (4) that such action chilled his exercise of his First Amendment rights, and (5) 15 that the action did not reasonably advance a legitimate correctional goal.

Rhodes v. Robinson, 16 408 F.3d 559, 567-68 (9th Cir. 2005). 17 Here, plaintiff has failed to allege facts showing that he was fired because he engaged in 18 conduct protected by the First Amendment. A public employee’s speech is protected by the 19 Constitution only if it is made as a citizen on a matter of public concern, rather than pursuant to 20 the employee’s official duties.

Garcetti v. Ceballos, 547 U.S. 410, 418 (2006); Yescas v. 21 McCourt, No. 3:23-cv-00106-TWR-AHG, 2024 U.S. Dist. LEXIS 135706, at *36 (S.D. Cal. July 22 30, 2024). Plaintiff's complaint regarding Rojas did not involve a matter of public concern. 23 Accordingly, the complaint must be dismissed for failure to state a cognizable claim. 24 Leave to Amend 25 Plaintiff's complaint is dismissed with leave to amend.

If plaintiff chooses to file an 26 amended complaint it should observe the following: 27 Any amended complaint must identify as a defendant only persons who personally 28 participated in a substantial way in depriving him of a federal constitutional right. Johnson v. 1 Duffy, 588 F.2d 740, 743 (9th Cir. 1978) (a person subjects another to the deprivation of a 2 constitutional right if he does an act, participates in another's act or omits to perform an act he is 3 legally required to do that causes the alleged deprivation).

The complaint should also describe, 4 in sufficient detail, how each defendant personally violated or participated in the violation of his 5 rights. The court will not infer the existence of allegations that have not been explicitly set forth 6 in the amended complaint. 7 The amended complaint must contain a caption including the names of all defendants. 8 Fed.

R. Civ. P. 10(a). 9 Plaintiff may not change the nature of this suit by alleging new, unrelated claims. See 10 George v. Smith, 507 F.3d 605, 607 (7th Cir. 2007). 11 Any amended complaint must be written or typed so that it so that it is complete in itself 12 without reference to any earlier filed complaint. E.D. Cal. L.R. 220. This is because an amended 13 complaint supersedes any earlier filed complaint, and once an amended complaint is filed, the 14 earlier filed complaint no longer serves any function in the case.

See Forsyth v. Humana, 114 15 F.3d 1467, 1474 (9th Cir. 1997) (the "'amended complaint supersedes the original, the latter 16 being treated thereafter as non-existent.'") (quoting Loux v. Rhay, 375 F.2d 55, 57 (9th Cir. 17 1967)). 18 Finally, the court notes that any amended complaint should be as concise as possible in 19 fulfilling the above requirements.

Fed. R. Civ. P. 8(a). Plaintiff should avoid the inclusion of 20 procedural or factual background which has no bearing on his legal claims. 21 Conclusion 22 Accordingly, IT IS ORDERED that: 23 1. Plaintiff's application to proceed in forma pauperis (ECF No. 6) is GRANTED; 24 2. Plaintiff shall pay the statutory filing fee of \$350. All payments shall be collected in 25 accordance with the notice to the Director of CDCR filed concurrently herewith; 26 3.

Plaintiff's complaint (ECF No. 1) is DISMISSED with leave to amend within 30 27 days of service of this order; and 28 ////] 4. Failure to comply with this order may result in dismissal of this action for the 2 reasons stated herein. 3 4 | Dated: May 12, 2025 Pitti A "hehe a et Se Ai Aa 5 UNITED STATES MAGISTRATE JUDGE 6 7 8 9 10 1] 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28

