

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

Casterlow v. Chmielewski

No. 2:25-cv-1316-JDP (P), United States District Court for the Eastern District of California (May 20, 2025)

OPINION

(PC) Casterlow v. Chmielewski

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 KELALA KEAKA CASTERLOW, Case No. 2:25-cv-1316-JDP (P) 12 Plaintiff, 13 v.
ORDER 14 JOHN CHMIELEWSKI, et al., 15 Defendants. 16 17 Plaintiff, a pre-trial detainee,
has filed this civil right action alleging that defendants John 18 Chmielewski, Eugene Dey,
Marlene D. Wilder, and Jeffery M. Depue, violated his rights by 19 evicting him from a half-way
house and taking his property. Plaintiff fails to state a cognizable 20 § 1983 claim. Plaintiff may, if
he chooses, file an amended complaint that addresses the 21 deficiencies noted herein. I will grant
his application to proceed in forma pauperis, ECF No. 2, 22 which makes the required showing.
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 28 1 which relief may be granted, or seeks monetary
relief from a defendant who is immune from such 2 relief. Id. 3 A complaint must contain a short
and plain statement that plaintiff is entitled to relief, 4 Fed. R. Civ. P. 8(a)(2), and provide “enough
facts to state a claim to relief that is plausible on its 5 face,” Bell Atl. Corp. v. Twombly, 550 U.S.
544, 570 (2007). The plausibility standard does not 6 require detailed allegations, but legal
conclusions do not suffice. See Ashcroft v. Iqbal, 556 U.S. 7 662, 678 (2009). If the allegations
“do not permit the court to infer more than the mere 8 possibility of misconduct,” the complaint
states no claim. Id. at 679. The complaint need not 9 identify “a precise legal theory.” Kobold v.
Good Samaritan Reg’l Med. Ctr., 832 F.3d 1024, 10 1038 (9th Cir. 2016). Instead, what plaintiff
must state is a “claim”—a set of “allegations that 11 give rise to an enforceable right to relief.”
Nagrampa v. MailCoups, Inc., 469 F.3d 1257, 1264 12 n.2 (9th Cir. 2006) (en banc) (citations
omitted). 13 The court must construe a pro se litigant’s complaint liberally. See Haines v. Kerner,
404 14 U.S. 519, 520 (1972) (per curiam). The court may dismiss a pro se litigant’s complaint “if
it 15 appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which
16 would entitle him to relief.” Hayes v. Idaho Corr. Ctr., 849 F.3d 1204, 1208 (9th Cir. 2017). 17

However, “‘a liberal interpretation of a civil rights complaint may not supply essential elements 18 of the claim that were not initially pled.’” *Bruns v. Nat’l Credit Union Admin.*, 122 F.3d 1251, 19 1257 (9th Cir. 1997) (quoting *Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982)). 20 Analysis 21 The complaint alleges that while plaintiff was living at a halfway house, defendants stole 22 his mail and property, evicted him, and towed his RV. ECF No. 1 at 3-4. These allegations are 23 insufficient to state a claim for violation of plaintiff’s constitutional rights under § 1983 because 24 plaintiff has not alleged that defendants were acting under color of state law. See 42 U.S.C. 25 § 1983; *Soo Park v. Thompson*, 851 F.3d 910, 921 (9th Cir. 2017). “The traditional definition of 26 acting under color of state law requires that the defendant in a § 1983 action have exercised 27 power ‘possessed by virtue of state law and made possible only because the wrongdoer is clothed 28 with the authority of state law.’” *West v. Atkins*, 487 U.S. 42, 49 (1988) (quoting *United States v. 1 | Classic*, 313 U.S. 299, 326 (1941)). 2 Accordingly, plaintiff’s complaint is dismissed for failure to state a claim. Out of an 3 | abundance of caution and considering plaintiffs pro se status, I will allow plaintiff another 4 | opportunity to amend his complaint before recommending that this action be dismissed. If 5 | plaintiff decides to file an amended complaint, the amended complaint will supersede the current 6 | one. See *Lacey v. Maricopa Cnty.*, 693 F.3d 896, 907 n.1 (9th Cir. 2012) (en banc). This means 7 | that the amended complaint will need to be complete on its face without reference to the prior 8 | pleading. See E.D. Cal. Local Rule 220. Once an amended complaint is filed, the current one no 9 | longer serves any function. Therefore, in an amended complaint, as in the original, plaintiff will 10 | need to assert each claim and allege each defendant’s involvement in sufficient detail. The 11 | amended complaint should be titled “First Amended Complaint” and refer to the appropriate case 12 | number. If plaintiff does not file an amended complaint, I will recommend that this action be 13 || dismissed. 14 Accordingly, it is hereby ORDERED that: 15 1. Plaintiff’s request for leave to proceed in forma pauperis, ECF No. 2, is GRANTED. 16 2. Plaintiffs complaint, ECF No. 1, is DISMISSED with leave to amend. 17 3. Within thirty days from service of this order, plaintiff shall file either (1) an amended 18 | complaint or (2) notice of voluntary dismissal of this action without prejudice. 19 4. Failure to timely file either an amended complaint or notice of voluntary dismissal may 20 | result in the imposition of sanctions, including a recommendation that this action be dismissed 21 | with prejudice pursuant to Federal Rule of Civil Procedure 41(b). 22 5. The Clerk of Court shall send plaintiff a complaint form with this order. 23 IT IS SO ORDERED.

25 (q oy — Dated: _ May 20, 2025 _—————

26 JEREMY D., PETERSON

UNITED STATES MAGISTRATE JUDGE

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