

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

Mark A. Crozier v. Valley Health Team, Inc., et al.

No. 1:24-cv-00255-KES-BAM (E.D. Cal. Dec. 4, 2025) · No. 1:24-cv-00255-KES-BAM · Decided December
4, 2025

OPINION

Crozier

PER CURIAM.

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UNITED STATES DISTRICT COURT

8

FOR THE EASTERN DISTRICT OF CALIFORNIA

9 10 MARK A. CROZIER, Case No. 1:24-cv-00255-KES-BAM 11 Plaintiff, FINDINGS AND
RECOMMENDATIONS

12 REGARDING DISMISSAL OF ACTION

v. 13 (Doc. 20) VALLEY HEALTH TEAM, INC., et al.,

14 FOURTEEN-DAY DEADLINE

Defendants. 15 16 Plaintiff Mark A. Crozier (“Plaintiff”), proceeding pro se and in forma
pauperis, initiated 17 this civil action on February 29, 2024, under the Federal Tort Claims Act
 (“FTCA”). (Doc. 1.) 18 On March 24, 2025, the Court granted Plaintiff a final opportunity to
amend his complaint 19 to allege that this lawsuit is timely, or that he is entitled to equitable
tolling, under the timing 20 requirements of 28 U.S.C. § 2401(b). (Doc. 17.) On April 18, 2025,
the Court granted Plaintiff a 21 sixty-day extension of time to file a third amended complaint.
(Doc. 19.) Plaintiff’s third 22 amended complaint (“TAC”), filed on June 23, 2025, is currently
before the Court for screening. 23 (Doc. 20.) 24 I. Screening Requirement and Standard 25 The
Court screens complaints brought by persons proceeding in pro se and in forma 26 pauperis. 28
U.S.C. § 1915(e)(2). Plaintiff’s complaint, or any portion thereof, is subject to 27 dismissal if it is
frivolous or malicious, if it fails to state a claim upon which relief may be 28 granted, or if it seeks
monetary relief from a defendant who is immune from such relief. 28 1 U.S.C. § 1915(e)(2)(B)
(ii). 2 A complaint must contain “a short and plain statement of the claim showing that the 3
pleader is entitled to relief” Fed. R. Civ. P. 8(a)(2). Detailed factual allegations are not 4
required, but “[t]hreadbare recitals of the elements of a cause of action, supported by mere 5
conclusory statements, do not suffice.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Bell 6*
Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007)). While a plaintiff’s allegations are taken as
7 true, courts “are not required to indulge unwarranted inferences.” *Doe I v. Wal-Mart Stores, Inc.*,
8 572 F.3d 677, 681 (9th Cir. 2009) (internal quotation marks and citation omitted). 9 To survive

screening, Plaintiff's claims must be facially plausible, which requires 10 sufficient factual detail to allow the Court to reasonably infer that each named defendant is liable 11 for the misconduct alleged. *Iqbal*, 556 U.S. at 678 (quotation marks omitted); *Moss v. U.S. Secret 12 Serv.*, 572 F.3d 962, 969 (9th Cir. 2009). The sheer possibility that a defendant acted unlawfully 13 is not sufficient, and mere consistency with liability falls short of satisfying the plausibility 14 standard. *Iqbal*, 556 U.S. at 678 (quotation marks omitted); *Moss*, 572 F.3d at 969. 15 II. Summary of Plaintiff's Allegations 16 Plaintiff names Valley Health Team, Inc as the sole defendant. Plaintiff alleges that on

17 September 24, 2019, Plaintiff went inside defendant's dental practice to get his teeth deep 18 cleaned. While getting his teeth deep cleaned, the doctor started drilling Plaintiff's teeth "without 19 his permission or his insurance permission which caused Plaintiff to sustain serious injury." 20 (Doc. 20 at 1.) When Plaintiff called his insurance company, he was informed that the doctor 21 "was only suppose to do a deep cleaning." (Id.) 22 In his first cause of action, Plaintiff asserts that defendant and its employees committed 23 professional negligence "when they took it upon themselves to drill two big holes in the Plaintiff 24 teeth which cases serious injury and disfigurement." (Doc. 20 at 2.) He claims that the 25 "negligent acts of defendant breached the standard of dental care comparable to other dentist who 26 practiced in this community and because of defendant's negligence Plaintiff suffered injury and 27 disfigurement." (Id. at 2-3.) 28 In his second cause of action, Plaintiff asserts that defendant and its employees "did 1 personally injure the Plaintiff when they drilled in his teeth without his permission and without 2 permission from his insurance company." (Id. at 3.) He alleges that this caused Plaintiff "severe 3 injury to his two teeth and cause disfigurement to [his] teeth and jaw." (Id.) He seeks a judgment 4 in the amount of \$303,000.00. (Id.) 5 III. Discussion 6 Under the Federally Supported Health Centers Assistance Act ("FSHCAA"), Federal 7 Tort Claims Act ("FTCA") coverage may be granted to certain federally qualified health centers 8 and their employees. See *Blumberger v. Tilley*, 115 F.4th 1113, 1117 (9th Cir. 2024) (explaining 9 that under FSHCAA, federally funded health centers and their employees can be "deemed" 10 federal employees for the purposes of malpractice liability and that "[w]hen deemed employees 11 are sued for actions taken within the scope of their employment, the United States is . . . 12 substituted as the defendant and the action proceeds as an FTCA suit"); see also *Velasquez v. 13 United States*, No. 2:13-CV-02559-JAM-AC, 2014 WL 3837294, at *1 (E.D. Cal. Aug. 1, 2014). 14 Defendant Valley Health Team Inc is not a proper defendant under the FTCA, and the United 15 States is the only proper defendant. *Lance v. United States*, 70 F.3d 1093, 1095 (9th Cir. 1995) 16 ("The United States is the only proper defendant in a FTCA action."). 17 "The FTCA provides that the United States shall be liable for tort claims 'in the same 18 manner and to the same extent as a private individual under like circumstances.'" *Gelazela v. 19 United States*, No. 1:21-cv-01499-AWI-EPG (PC), 2022 WL 17368681, at *9 (E.D. Cal. Dec. 1, 20 2022) (citing *United States v. Olson*, 546 U.S. 43, 46 (2005); 28 U.S.C. § 2674). "To state a 21 claim for medical negligence or malpractice under

California law, Plaintiff must establish ‘(1) 22 the duty of the professional to use such skill, prudence, and diligence as other members of his 23 profession commonly possess and exercise; (2) a breach of that duty; (3) a proximate causal 24 connection between the negligent conduct and the resulting injury; and (4) actual loss or damage 25 resulting from the professional’s negligence.’” Gelazela, 2022 WL 17368681, at *10 (citing 26 Sampson v. Ukiah Valley Med. Ct., No. 15-cv-00160-WHO, 2017 WL 2834001, at *3 (N.D. Cal. 27 June 30, 2017)).

28 Liberally construed, Plaintiff’s TAC states a cognizable claim for medical negligence or 1 malpractice. 2 However, despite the Court’s prior instructions, Plaintiff has failed to adequately allege 3 that he timely complied with the FTCA’s administrative claim filing deadline. “A tort claim 4 against the United States shall be forever barred unless it is presented in writing to the 5 appropriate Federal agency within two years after such claim accrues or unless action is begun 6 within six months after the date of mailing, by certified or registered mail, of notice of final 7 denial of the claim by the agency to which it was presented.” 28 U.S.C. § 2401(b). 8 As the district court explained in its March 24, 2025 order, to allege timely filing under 9 the FTCA, Plaintiff “must allege facts sufficient to show both (1) that he timely filed his claim 10 with the Department of Health and Human Services (“HHS”) within two years of its accrual, 11 and, (2) if HHS issued a denial of his claim, that he filed this case within six months of that 12 denial, or in the case of a failure to meet either or both of those deadlines, that he is entitled to 13 equitable tolling as to each deadline that was not met.” (Doc. 17 at 3, citing *United States v. 14 Wong*, 575 U.S. 402, 420 (2015)). 15 The dental procedure and injury giving rise to the tort claim occurred on September 24, 16 2019. (Doc. 20 at 1.) In the TAC, Plaintiff alleges that he “did file a claim but never received a 17 response” and he “filed an updated claim [o]n February 22, 2022.” (Id. at 1-2.) Plaintiff does 18 not allege the date when he reportedly filed his initial claim with HHS. Although it can be 19 inferred from the allegations that he filed an initial claim prior to February 22, 2022, that 20 inference is not sufficient. Absent a specific date, the Court cannot conclude that Plaintiff timely 21 filed an administrative claim within two years after September 24, 2019, as required under 28 22 U.S.C. § 2401(b). Plaintiff’s claim is therefore barred as untimely unless he can demonstrate that 23 he is entitled to equitable tolling. 24 As the district court also explained in its March 24, 2025 order: 25 To be entitled to equitable tolling, a plaintiff must establish “(1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood 26 in his way and prevented timely filing.” *Menominee Indian Tribe of Wisconsin v. U.S.*, 577 U.S. 250, 255 (2016) (citing *Holland v. Florida*, 560 U.S. 631, 649 27 (2010)). The litigant’s diligence refers to “affairs within the litigant’s control.” Id. at 257. The extraordinary-circumstances prong “is met only where the 28 circumstances that caused a litigant’s delay are both extraordinary and beyond [his] 1 control.” Id. (emphasis in original). 2 (Doc. 17 at 4.) In the TAC, Plaintiff alleges that tolling should apply “because he never received 3 a response on his initial claim” and “it was not [his] fault for the defendants to not respond to his 4 claim in a timely manner.” (Doc 20 at 2.)

These bare allegations, without further details, are not sufficient to demonstrate that Plaintiff is entitled to equitable tolling. As Plaintiff was advised by the district court, “without details and dates, the Court will not be able to analyze whether his situation constitutes the due diligence and extraordinary circumstances to warrant equitable tolling as to the two-year requirement under 28 U.S.C. § 2401(b).” (Doc. 17 at 4.) Additionally, to be timely under 28 U.S.C. § 2401(b), Plaintiff must also allege the date of notice of final denial of the claim and that this suit was brought within six months of that date or that he is entitled to equitable tolling. See, e.g., *Ehimika v. United States*, No. CV 24-5962-12 DMG (JCx), 2024 WL 4800680, at *1 (C.D. Cal. Oct. 10, 2024) (citations omitted); (Doc. 17 at 13 5.) As with his second amended complaint, Plaintiff’s TAC fails to demonstrate that he timely filed his complaint with this Court within six months of HHS denying his claim. At a minimum, Plaintiff’s TAC does not adequately allege whether, and when, HHS denied his administrative claim. As explained by the district court, without allegations of “when, or even if, HHS issued a formal denial of his claim, or when it did so . . . it cannot be established whether this case was filed within six months of the required date.” (Doc 17 at 5.) Plaintiff’s TAC also does not establish a basis for equitable tolling regarding the filing of this suit within the six-month period. Plaintiff’s allegations regarding equitable tolling appear to relate only to his filing of an initial claim with HHS.

IV. Conclusion and Recommendation

For the reasons stated, it is HEREBY RECOMMENDED that this action be dismissed based on Plaintiff’s failure to allege that he timely exhausted his administrative remedies prior to bringing this lawsuit and timely filed his complaint in this Court under 28 U.S.C. § 2401(b), or that he is entitled to equitable tolling under the timing requirements of 28 U.S.C. § 2401(b). These Findings and Recommendations will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within fourteen (14) days after being served with these Findings and Recommendations, the parties may file written objections with the court. The document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” Objections, if any, shall not exceed fifteen (15) pages or include exhibits. Exhibits may be referenced by document and page number if already in the record before the Court. Any pages filed in excess of the 15-page limit may not be considered. The parties are advised that failure to file objections within the specified time may result in the waiver of the “right to challenge the magistrate’s factual findings” on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 838–39 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: December 4, 2025 /s/ Barbara A. McAuliffe _

UNITED STATES MAGISTRATE JUDGE

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