

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

McCoy v. Green

McCoy v. Green · No. 1:25-cv-00238-KES-CDB · Decided May 22, 2025

SUMMARY

The United States District Court for the Eastern District of California vacates its May 20, 2025 findings and recommendations and discharges its April 22, 2025 order to show cause after Plaintiff responded. The Court grants Plaintiff 21 days to amend his § 1983 complaint to clarify his malicious-prosecution and Monell allegations, while explaining requirements for municipal liability and noting Eleventh Amendment immunity for CDCR and its facilities. Plaintiff may instead elect to proceed on the existing complaint, in which case dismissal of the Monell claim will be recommended, or voluntarily dismiss the action.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	May 22, 2025
DOCKET	1:25-cv-00238-KES-CDB
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff brought a civil-rights action under 42 U.S.C. § 1983. After the court issued an order to show cause concerning whether the Monell claim was duplicative of an earlier action, and then issued findings and recommendations recommending dismissal for failure to prosecute and obey court orders, Plaintiff filed a response. The court vacated the findings and recommendations, discharged the show-cause order, and granted leave to amend.
STANDARD OF REVIEW	Preliminary screening of a pro se civil-rights complaint under the applicable pleading and claim-sufficiency standards; the court also evaluated compliance with its orders and local rules.
PRECEDENTIAL VALUE	unknown
PARTIES	Lakeith L. McCoy v. Lisa Green, et al.

TOPICS

section 1983

pleadings

motion to amend

eleventh amendment immunity

civil procedure

PRACTICE AREAS

civil rights

constitutional law

civil procedure

QUESTIONS PRESENTED

1. Whether the May 20, 2025 findings and recommendations recommending dismissal for failure to prosecute and obey court orders should be vacated after Plaintiff filed a response to the show-cause order.
2. Whether Plaintiff showed good cause to discharge the April 22, 2025 show-cause order concerning possible duplication of the Monell claim.
3. Whether Plaintiff should be granted leave to amend the complaint to clarify and limit the allegations to malicious prosecution.
4. What allegations are required to state a Monell claim under 42 U.S.C. § 1983.
5. Whether claims against the California Department of Corrections and Rehabilitation and its facilities are barred by Eleventh Amendment immunity.

HOLDINGS

1. The May 20, 2025 findings and recommendations recommending dismissal for failure to prosecute and obey court orders were vacated because Plaintiff timely responded to the show-cause order.
2. Plaintiff showed good cause, based on his response and representations that the present malicious-prosecution allegations arose after the earlier McCoy I action was initiated, and the April 22, 2025 show-cause order was discharged.
3. Plaintiff was granted leave to amend his complaint, to the extent he could do so in good faith, to clarify that the allegations and claims were limited to malicious prosecution.
4. To state a cognizable Monell claim, Plaintiff must allege that he was deprived of a constitutional right, the defendant had a policy or custom, the policy or custom amounted to deliberate indifference to the constitutional right, and the policy or custom was the moving force behind the constitutional violation.
5. Suits against the California Department of Corrections and Rehabilitation and its facilities are barred by Eleventh Amendment immunity, and California has not waived that immunity for federal claims under § 1983.

KEY QUOTATIONS

“To cognizably allege a claim under Monell, Plaintiff must show: (1) he was deprived of a constitutional right; (2) defendant had a policy or custom; (3) the policy or custom amounted to a deliberate indifference to his constitutional right; and (4) the policy was the moving force behind the constitutional violation.” (at 3)

“Liability for improper custom may not be predicated on isolated or sporadic incidents; it must be founded upon practices of sufficient duration, frequency and consistency that the conduct has become a traditional

method of carrying out policy.” (at 3)

“An amended complaint supersedes the original complaint.” (at 4)

FACTUAL BACKGROUND

Plaintiff alleged that Defendants engaged in conduct involving malicious prosecution, including allegedly false reports and failure to discipline staff, and sought to pursue a Monell claim against the County of Kern. The court was concerned that the claim might duplicate claims in Plaintiff's earlier action, McCoy I, which involved excessive force. Plaintiff represented that the malicious-prosecution allegations arose after McCoy I was initiated and sought leave to amend to clarify that the present action was limited to malicious prosecution.

PROCEDURAL HISTORY

Plaintiff filed the complaint on February 24, 2025. The court issued an April 22, 2025 show-cause order regarding possible duplication of Plaintiff's Monell claim with McCoy I, and on May 20, 2025 issued findings and recommendations recommending dismissal without prejudice after Plaintiff failed to timely respond. Plaintiff's response was filed May 21, 2025, and the court concluded that the response was timely, vacated the findings and recommendations, discharged the show-cause order, and granted Plaintiff 21 days either to amend, proceed on the existing complaint subject to a recommendation to dismiss the Monell claim, or voluntarily dismiss.

DISPOSITION

other

CASES CITED

- Lopez v. Smith, 203 F.3d 1122, 1130 (9th Cir. 2000)
- Burke v. Cnty. of Alameda, 586 F.3d 725, 734 (9th Cir. 2009)
- Monell v. Dep't of Social Servs. of City of New York, 436 U.S. 658, 691, 694 (1978)
- City of St. Louis v. Praprotnik, 485 U.S. 112, 127 (1988)
- Trevino v. Gates, 99 F.3d 911, 918 (9th Cir. 1996)
- Connick v. Thompson, 563 U.S. 51, 63 n.7 (2011)
- Lucas v. Dep't of Corrs., 66 F.3d 245, 248 (9th Cir. 1995) (per curiam)
- Alabama v. Pugh, 438 U.S. 781, 782 (1978) (per curiam)
- Dittman v. California, 191 F.3d 1020, 1025-26 (9th Cir. 1999)
- Brown v. Cal. Dep't. of Corrs., 554 F.3d 747, 752 (9th Cir. 2009)
- Ashcroft v. Iqbal, 556 U.S. 662, 678-79 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007)
- George v. Smith, 507 F.3d 605, 607 (7th Cir. 2007)
- Lacey v. Maricopa Cnty., 693 F.3d 896, 907 n.2 (9th Cir. 2012)
- Brooks v. Sulphur Springs

OPINION

McCoy v. Green

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 LAKEITH L. MCCOY, Case No.: 1:25-cv-00238-KES-CDB 12 Plaintiff, ORDER
VACATING MAY 20, 2025,

FINDINGS AND RECOMMENDATIONS

13 v. (Doc. 5) 14 LISA GREEN, et al.,

ORDER DISCHARGING APRIL 22, 2025,

15 Defendants. SHOW CAUSE ORDER 16 (Doc. 4)

17 ORDER GRANTING LEAVE TO AMEND

18 (Docs. 1, 6)

19 21-DAY DEADLINE

20 21 Relevant Background 22 Plaintiff Lakeith L. McCoy (“Plaintiff”) is proceeding pro se in
this civil rights action 23 pursuant to 42 U.S.C. section 1983. 24 Plaintiff initiated this action with
the filing of a complaint on February 24, 2025. (Doc. 1). 25 Following a preliminary review of the
complaint, on April 22, 2025, the undersigned ordered 26 Plaintiff to show cause in writing “why
Plaintiff’s Monell claim should not be dismissed as 27 duplicative of 1:15-cv-00768-KES-HBK
(PC) [(“McCoy I”).]” (Doc. 4 at 5) (emphasis in original). In the show cause order, the
undersigned noted that Defendants’ conduct on which Plaintiff 1 premises his Monell claim (see
Doc. 1 at 18-21) was known to Plaintiff at the time he commenced 2 McCoy I and relates to the
same conduct at issue in McCoy I. (Id. at 4). 3 After Plaintiff failed to timely file a response to the
Court’s show cause order, on May 20, 4 2025, the Court issued findings and recommendations to
dismiss the action without prejudice for 5 Plaintiff’s failure to prosecute and to obey court orders
and local rules. (Doc. 5). 6 Order Vacating Findings and Recommendations and Discharging Show
Cause Order 7 Pending before the Court is Plaintiff’s response to the Court’s order to show cause,
filed on

8 May 21, 2025. (Doc. 6). Plaintiff’s response is signed and dated on May 13, 2025. (Id. at 2).

9 Plaintiff represents that his complaint is not duplicative if the earlier-filed McCoy I action as this
10 case “proceeds with claims that arose after” McCoy I which involved excessive force, and at
the 11 time that case was filed, he “had not been subjected” to the malicious prosecution that is
“now 12 before the Court[.]” (Id. ¶¶ 2-4). Plaintiff represents that the instant complaint “may have
alleged 13 or mentioned excessive force” but his Monell claim here “is for the actions surrounding
the 14 [m]alicious [p]rosecution such as the failure to discipline staff for filing false reports which
did not 15 or could not have been pled until after [his] criminal case was dismissed and after
[McCoy I] had 16 been initiated.” (Id. ¶ 5). He further represents that the excessive force conduct

in McCoy I “does 17 not relate” to his current malicious prosecution claim and other than “the facts of the conduct that 18 led” to the malicious prosecution. (Id. ¶ 6). Plaintiff represents that the malicious prosecution here 19 was retaliatory and that he was not criminally prosecuted “until a year after” the alleged excessive 20 force. (Id. ¶ 7). Plaintiff seeks to amend his complaint “to clarify the matter.” (Id. ¶ 8). Lastly, 21 Plaintiff requests that his Monell claim not be dismissed, and this Court find that he “has shown 22 good cause” for discharge of the show cause order. (Id. at 2). 23 In light of Plaintiff’s timely response to the show cause order, the Court will vacate the 24 findings and recommendations to dismiss the action for Plaintiff’s failure to prosecute. (Doc. 5). 25 Further, based on Plaintiff’s representations in his response to the show cause order, the Court finds 26 good cause to discharge the show cause order. (Doc. 4). 27 Granting Leave to Amend 1 to clarify the allegations and claims in his pleading as limited to malicious prosecution (see Doc. 6 2 at 2), Plaintiff will be granted leave to amend his complaint to the extent he is able to do so in good 3 faith. *Lopez v. Smith*, 203 F.3d 1122, 1130 (9th Cir. 2000). 4 To cognizably allege a claim under Monell, Plaintiff must show: (1) he was deprived of a 5 constitutional right; (2) defendant had a policy or custom; (3) the policy or custom amounted to a 6 deliberate indifference to his constitutional right; and (4) the policy was the moving force behind 7 the constitutional violation. *Burke v. Cnty. of Alameda*, 586 F.3d 725, 734 (9th Cir. 2009) (quoting 8 *Monell v. Dep’t of Social Servs. Of City of New York*, 436 U.S. 658, 694 (1978)) (emphasis added). 9 A custom is “a widespread practice that, although not authorized by written law or express 10 municipal policy, is so permanent and well-settled as to constitute a custom or usage with the force 11 of law.” *City of St. Louis v. Praprotnik*, 485 U.S. 112, 127 (1988) (internal quotations omitted). 12 The custom must be so “persistent and widespread” that it constitutes a “permanent and well 13 settled” practice. *Monell*, 436 U.S. at 691 (internal quotation omitted). “Liability for improper 14 custom may not be predicated on isolated or sporadic incidents; it must be founded upon practices 15 of sufficient duration, frequency and consistency that the conduct has become a traditional method 16 of carrying out policy.” *Trevino v. Gates*, 99 F.3d 911, 918 (9th Cir. 1996). However, 17 “contemporaneous or subsequent conduct cannot establish a pattern of violations that would 18 provide ‘notice to the [local government entity] and the opportunity to conform to constitutional 19 dictates.’” *Connick v. Thompson*, 563 U.S. 51, 63 n.7 (2011). 20 Consistent with the above-cited authority, Plaintiff may not maintain a Monell claim based 21 on allegations that he faced malicious prosecution on an isolated basis; the amended complaint 22 must challenge a law or regulation, or a policy or procedure or custom of County of Kern that would 23 give rise to municipal liability. 24 Separately, given Plaintiff’s naming of CDCR as a defendant in the operative complaint, 25 the Court notes that suits against CDCR and its facilities are barred by the Eleventh Amendment. 26 Specifically, the Eleventh Amendment prohibits federal courts from hearing suits brought against 27 a state by its own citizens, as well as by citizens of other states. See *Brooks v. Sulphur Springs* 1 states and state agencies. See *Lucas v. Dep’t of Corrs.*, 66 F.3d 245, 248 (9th Cir. 1995) (per 2 curiam); *Taylor*, 880 F.2d at 1045. A state’s agency responsible for

incarceration and correction 3 of prisoners is a state agency for purposes of the Eleventh Amendment. See *Alabama v. Pugh*, 438 U.S. 781, 782 (1978) (per curiam). The State of California has not waived its Eleventh Amendment immunity for federal claims under section 1983. *Dittman v. California*, 191 F.3d 610, 620–26 (9th Cir. 1999) (citing *Atascadero State Hosp. v. Scanlon*, 473 U.S. 234, 241 (1985)); see *Brown v. Cal. Dep't. of Corrs.*, 554 F.3d 747, 752 (9th Cir. 2009) (finding California Department of Corrections and California Board of Prison Terms entitled to Eleventh Amendment immunity). 10 If Plaintiff wishes to file a first amended complaint, any such amended complaint should be 11 brief (Fed. R. Civ. P. 8(a)) but it must state what each named defendant did that led to the 12 deprivation of Plaintiff's constitutional rights (*Ashcroft v. Iqbal*, 556 U.S. 662, 678–79 (2009)). 13 Although accepted as true, the “[f]actual allegation must be [sufficient] to raise a right to relief 14 above the speculative level[.]” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (citations 15 omitted). Additionally, Plaintiff may not change the nature of this suit by adding new, unrelated 16 claims in his amended complaint. *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007) (explaining 17 no “buckshot” complaints permitted). 18 Finally, an amended complaint supersedes the original complaint. *Lacey v. Maricopa Cnty.*, 19 F.3d 896, 907 n.2 (9th Cir. 2012). If Plaintiff elects to proceed with this action by filing an 20 amended complaint, the Court cannot refer to a prior pleading in order to make an amended 21 complaint complete. See E. D. Cal. Local Rule 220. The amended complaint must be complete 22 in itself without reference to the prior or superseded pleading. Once the amended complaint is 23 filed, the original pleading no longer serves any function in the case. Thus, in the amended 24 complaint, Plaintiff must re-plead all elements of his claims, including all relevant facts, even 25 the ones not addressed by this screening order. 26 ///

27 ///

1 Conclusion and Order 2 Accordingly, IT IS HEREBY ORDERED: 3 1. The May 20, 2025, findings and recommendations (Doc. 5) are VACATED; 4 2. The April 22, 2025, show cause order (Doc. 4) is DISCHARGED; 5 3. The Clerk of the Court shall send Plaintiff a civil rights complaint form; and 6 4. Within 21 days from the date of service of this order, Plaintiff must either: 7 a. File a first amended complaint curing the deficiencies identified by the Court 8 in this order; or 9 b. File a notice expressing Plaintiff's desire to proceed on the complaint as filed, 10 following which the undersigned will recommend that the first cause of action 11 (Monell claim) be dismissed; or 12 c. File a notice of voluntary dismissal. Fed. R. Civ. P. 41(a)(1)(A)(@). 13 If Plaintiff fails to timely comply with this order, the Court will recommend that this 14 | action be dismissed for failure to state a claim, failure to obey a court order, and/or failure to 15 | prosecute. 16 | Tr Is SO ORDERED. ar DR Dated: _ May 22, 2025 _

18 UNITED STATES MAGISTRATE JUDGE

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