

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Mario Patino v. D. Dominguez

Patino · No. 25-cv-00589-BAS-KSC · Decided June 4, 2025

SUMMARY

The United States District Court for the Southern District of California dismissed Mario Patino’s pro se 42 U.S.C. § 1983 complaint without prejudice under 28 U.S.C. §§ 1915(e)(2) and 1915A(b) for failure to state a claim. The court rejected claims involving an allegedly unreasonable prison search, confiscation of a religious necklace, due process, and violations of California law and regulations. The court granted Patino 45 days to file a First Amended Complaint.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Cynthia Bashant
JURISDICTION	United States District Court for the Southern District of California
DECIDED	June 4, 2025
DOCKET	25-cv-00589-BAS-KSC
DISPOSITION	dismissed
PROCEDURAL POSTURE	Prisoner civil-rights action under 42 U.S.C. § 1983 dismissed sua sponte at screening under 28 U.S.C. §§ 1915(e)(2) and 1915A(b) for failure to state a claim, with leave to amend.
STANDARD OF REVIEW	The court applied the screening standards of 28 U.S.C. §§ 1915(e)(2) (B) and 1915A(b), using the Federal Rule of Civil Procedure 12(b)(6) standard for failure to state a claim and the plausibility standard of Ashcroft v. Iqbal.
PRECEDENTIAL VALUE	unpublished
PARTIES	Mario Patino v. D. Dominguez, Miranda, Irving, Parkhill

TOPICS

- prisoners rights
- section 1983
- motions to dismiss
- free exercise clause
- due process

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the complaint plausibly alleged that the clothed and unclothed searches were unreasonable under the Fourth Amendment.
2. Whether confiscation of the St. Jude necklace plausibly alleged a substantial burden on sincerely held religious exercise under the First Amendment.
3. Whether the alleged unauthorized confiscation of the necklace stated a Fourteenth Amendment due-process claim despite the availability of a California post-deprivation remedy.
4. Whether alleged violations of California criminal statutes and prison regulations independently stated a claim under 42 U.S.C. § 1983.
5. Whether the complaint should be dismissed without prejudice and with leave to amend.

HOLDINGS

1. The complaint failed to plausibly allege that the initial clothed search and subsequent unclothed search were unreasonable in the prison context; therefore, it failed to state a Fourth Amendment claim.
2. The complaint failed to state a First Amendment free-exercise claim because it did not plausibly allege that Patino's need to possess the necklace was sincerely held and rooted in religious belief or that confiscation substantially burdened his religious exercise.
3. The complaint failed to state a due-process claim because California provides an adequate post-deprivation remedy for the alleged unauthorized confiscation of personal property.
4. Alleged violations of California criminal laws and Title 15 of the California Code of Regulations, without more, did not state a claim under 42 U.S.C. § 1983.

KEY QUOTATIONS

“The standard for determining whether a Plaintiff has failed to state a claim upon which relief can be granted under § 1915(e)(2)(B)(ii) is the same as the Federal Rule of Civil Procedure 12(b)(6) standard for failure to state a claim.” (at 2)

“To establish § 1983 liability, a plaintiff must show both (1) deprivation of a right secured by the Constitution and laws of the United States, and (2) that the deprivation was committed by a person acting under color of state law.” (at 3)

“A substantial burden . . . places more than an inconvenience on religious exercise; it must have a tendency to coerce individuals into acting contrary to their religious beliefs or exert substantial pressure on an adherent to modify his behavior and to violate his beliefs.” (at 4)

“A district court should not dismiss a pro se complaint without leave to amend unless it is absolutely clear that the deficiencies of the complaint could not be cured by amendment.” (at 6)

FACTUAL BACKGROUND

Patino, a prisoner at Centinela State Prison, alleged that correctional officer Dominguez conducted a clothed search followed by an unclothed search and discovered a St. Jude metal medallion necklace. After officers instructed him to relinquish the necklace, Patino agreed to release it through the mail, but alleged that prison staff instead confiscated it. He claimed violations of the Fourth Amendment, First Amendment free-exercise rights, and due process, and also invoked California statutes and prison regulations.

PROCEDURAL HISTORY

Patino filed the action in the Central District of California on November 22, 2024, and was granted leave to proceed in forma pauperis on January 24, 2025. The Central District transferred the case to the Southern District of California on March 10, 2025, after determining that venue was proper there. The Southern District screened the complaint, dismissed it without prejudice, and granted forty-five days to file a first amended complaint.

DISPOSITION

dismissed

CASES CITED

- Lopez v. Smith, 203 F.3d 1122, 1126-27 (9th Cir. 2000) (en banc)
- Rhodes v. Robinson, 621 F.3d 1002, 1004 (9th Cir. 2010)
- Watison v. Carter, 668 F.3d 1108, 1112 (9th Cir. 2012)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Tsao v. Desert Palace, Inc., 698 F.3d 1128, 1138 (9th Cir. 2012)
- Thompson v. Souza, 111 F.3d 694, 699-700 (9th Cir. 1997)
- Michenfelder v. Sumner, 860 F.2d 328, 332 (9th Cir. 1988)
- Bull v. City & Cnty. of San Francisco, 595 F.3d 964, 974-75 (9th Cir. 2010)
- Grummet v. Rushen, 779 F.2d 491, 495 (9th Cir. 1985)
- Hudson v. Palmer, 468 U.S. 517, 529, 533 (1984)
- O’Lone v. Estate of Shabazz, 482 U.S. 342, 348 (1987)
- Malik v. Brown, 16 F.3d 330, 333 (9th Cir. 1994)
- Callahan v. Woods, 658 F.2d 679, 683 (9th Cir. 1981)
- Long v. Sugai, 91 F.4th 1331, 1337 (9th Cir. 2024)
- Jones v. Williams, 791 F.3d 1023, 1031-32 (9th Cir. 2015)
- Turner v. Safley, 482 U.S. 78, 89 (1987)
- Barnett v. Centoni, 31 F.3d 813, 816-17 (9th Cir. 1994)
- Campbell v. Burt, 141 F.3d 927, 930 (9th Cir. 1998)
- Ellis v. City of San Diego, 176 F.3d 1183, 1189 (9th Cir. 1999)
- Cousins v. Lockyer, 568 F.3d 1063, 1070 (9th Cir. 2009)
- Nible v. Fink, 828 F. App’x 463, 464 (9th Cir. 2020)
- Rosati v. Igbinoso, 791 F.3d 1037, 1039 (9th Cir. 2015)

- Akhtar v. Mesa, 698 F.3d 1202, 1212 (9th Cir. 2012)
- Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc., 896 F.2d 1542, 1546 (9th Cir. 1990)
- Lira v. Herrera, 427 F.3d 1164, 1169 (9th Cir. 2005)

OPINION

Mario Patino v. D. Dominguez

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 MARIO PATINO, Case No. 25-cv-00589-BAS-KSC

CDCR #F05346,

12

ORDER DISMISSING

Plaintiff,

13 COMPLAINT FOR FAILURE TO

vs. STATE A CLAIM PURSUANT TO

14

28 U.S.C. §§ 1915(e)(2) AND

15 1915A(b) D. DOMINGUEZ, et al., 16 Defendants. 17 18 19 20 21 Mario Patino (“Patino” or
 “Plaintiff”), a prisoner currently confined at Centinela 22 State Prison (“CEN”), is proceeding pro
 se with a civil action pursuant to 42 U.S.C. § 1983. 23 This case was originally filed in the United
 States District Court for the Central District of 24 California on November 22, 2024. (See ECF
 No. 1.) That court granted Plaintiff’s motion 25 to proceed in forma pauperis (“IFP”) on January
 24, 2025. (ECF No. 6.) On March 10, 26 2025, however, that court found venue was proper in the
 Southern District of California 27 and transferred the case to this Court. (ECF No. 10.) 28 In his
 Complaint, Patino alleges that Defendants violated his rights under the Fourth 1 Amendment, the
 First Amendment, and the Due Process Clause by subjecting him to an 2 unreasonable search and
 subsequently confiscating a religious necklace he was wearing. 3 (See generally ECF No. 1.) For
 the reasons discussed below, the Court dismisses the 4 Complaint without prejudice for failure to
 state a claim.

5 I. SCREENING PURSUANT TO 28 U.S.C. § 1915(e) AND § 1915A(b)

6 A. Legal Standards 7 Because Plaintiff is proceeding IFP, the Court must screen his Complaint
 and sua 8 sponte dismiss it pursuant to 28 U.S.C. § 1915(e)(2)(B) and § 1915A(b), to the extent it
 is 9 frivolous, malicious, fails to state a claim, or seeks damages from defendants who are 10
 immune. See Lopez v. Smith, 203 F.3d 1122, 1126–27 (9th Cir. 2000) (en banc); Rhodes 11 v.
 Robinson, 621 F.3d 1002, 1004 (9th Cir. 2010). “The standard for determining whether 12 a
 Plaintiff has failed to state a claim upon which relief can be granted under 13 § 1915(e)(2)(B)(ii) is

the same as the Federal Rule of Civil Procedure 12(b)(6) standard for failure to state a claim.” *Watson v. Carter*, 668 F.3d 1108, 1112 (9th Cir. 2012). Rule 12(b)(6) requires that a complaint “contain sufficient factual matter . . . to state a claim to relief that is plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal quotation marks omitted). While detailed factual allegations are not required, “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice” to state a claim. *Id.* The “mere possibility of misconduct” or “unadorned, the defendant-unlawfully-harmed me accusation[s]” fall short of meeting this plausibility standard. *Id.* “To establish § 1983 liability, a plaintiff must show both (1) deprivation of a right secured by the Constitution and laws of the United States, and (2) that the deprivation was committed by a person acting under color of state law.” *Tsao v. Desert Palace, Inc.*, 698 F.3d 1128, 1138 (9th Cir. 2012).

B. Plaintiff’s Allegations

Patino alleges that on October 18, 2023, Dominguez, a CEN correctional officer, came to his cell and ordered Patino to come out. (ECF No. 1 at 5.) Patino complied. (*Id.*) Dominguez then handcuffed and searched Plaintiff’s person, but found no contraband. (*Id.*) Dominguez then escorted Patino to a shower in the building, where he conducted an unclothed body search, during which Dominguez discovered Patino was wearing a “St. Jude yellow metal medallion necklace.” (*Id.*) Dominguez ordered Patino to remove the necklace and Patino refused. (*Id.*) Shortly thereafter, Plaintiff was escorted to “medical to provide a urine sample.” (*Id.*) At some point, correctional officer Miranda ordered Patino to “relinquish” the St. Jude necklace and told Plaintiff that if he refused, he would be placed in a “holding cage.” (*Id.*) Patino explained that the necklace was a religious item that he had purchased by an “approved vendor.” (*Id.*) Correctional Sergeant Irving suggested Patino “release” the necklace “as property through the mail.” (*Id.* at 5–6.) Patino agreed to this suggestion, filled out a property release form, and gave both the form and the necklace to Miranda. (*Id.* at 6.) However, “moments later,” Plaintiff discovered he had been “mislead[ed],” and the necklace was “confiscate[d] . . . without a valid reason.” (*Id.*) Patino was then given a document which indicated the necklace was confiscated by Parkhill, another staff member. (*Id.*)

C. Discussion

Patino names Dominguez, Miranda, Irving and Parkhill as Defendants, in both their individual and official capacities. (*Id.* at 3–5.) He alleges that he was unreasonably searched in violation of the Fourth Amendment, and that his necklace was improperly confiscated in violation of his First Amendment and due process rights. (*Id.* at 5–7.) Patino also appears to allege Defendants violated portions of the California Penal Code and Title 15 of the Code of Regulations. (*Id.* at 7.) He seeks money damages and injunctive relief. (*Id.* at 8–9.)

1. Fourth Amendment

Plaintiff alleges his Fourth Amendment rights were violated by Dominguez and Miranda when he was searched, and his necklace confiscated, “without reason.” (*Id.* at 5.) The Ninth Circuit has held that the “Fourth Amendment right of people to be secure against unreasonable searches and seizures ‘extends to incarcerated prisoners; however, the reasonableness of a particular search is determined by reference to the prison context.’” *Thompson v. Souza*, 111 F.3d 694, 699 (9th Cir. 1997) (quoting

Michenfelder v. Sumner, 4 860 F.2d 328, 332 (9th Cir. 1988)). While prisoners retain limited rights to bodily privacy, 5 Bull v. City & Cnty. of San Francisco, 595 F.3d 964, 974–75 (9th Cir. 2010), neither routine 6 clothed pat-down searches nor random visual strip searches of inmates violate the Fourth 7 Amendment. See Grummet v. Rushen, 779 F.2d 491, 495 (9th Cir. 1985); Hudson v. 8 Palmer, 468 U.S. 517, 529 (1984) (“[W]holly random searches are essential to the effective 9 security of penal institutions.”); Thompson, 111 F.3d at 700 (upholding visual strip 10 searches conducted outside prisoner’s cell as reasonably related to the legitimate 11 penological interest in keeping drugs out of the prison). 12 Patino has failed to plausibly allege the initial clothed search and subsequent 13 unclothed search for contraband were unreasonable in the prison context. See 14 Michenfelder, 860 F.2d at 332 (stating a strip search is only unreasonable under the Fourth 15 Amendment where it is “excessive, vindictive, harassing, or unrelated to any legitimate 16 penological interest”). Therefore, he has failed to state a Fourth Amendment claim. See 17 28 U.S.C. §§ 1915(e)(2)(B)(ii) & 1915A(b)(1); Iqbal, 556 U.S. at 678. 18 2. First Amendment 19 Patino alleges that Dominguez, Miranda and Irving violated his First Amendment 20 right to free exercise when his St. Jude necklace was confiscated. (ECF No. 1 at 6.) 21 “Inmates . . . retain protections afforded by the First Amendment, . . . including its directive 22 that no law shall prohibit the free exercise of religion.” O’Lone v. Estate of Shabazz, 482 23 U.S. 342, 348 (1987) (citation omitted). To implicate the Free Exercise Clause, the 24 prisoner’s belief must be both “sincerely held” and “rooted in religious belief, not in ‘purely 25 secular’ philosophical concerns.” Malik v. Brown, 16 F.3d 330, 333 (9th Cir. 1994) 26 (quoting Callahan v. Woods, 658 F.2d 679, 683 (9th Cir. 1981)). 27 If the inmate makes his initial showing of a sincerely held religious belief, he must 28 then show that prison officials “substantially burdened” the practice of his religion by 1 preventing him from engaging in conduct which he sincerely believes is consistent with 2 his faith. See Long v. Sugai, 91 F.4th 1331, 1337 (9th Cir. 2024); Jones v. Williams, 791 3 F.3d 1023, 1031 (9th Cir. 2015). “A substantial burden . . . places more than an 4 inconvenience on religious exercise; it must have a tendency to coerce individuals into 5 acting contrary to their religious beliefs or exert substantial pressure on an adherent to 6 modify his behavior and to violate his beliefs.” Jones, 791 F.3d at 1031–32 (citation 7 omitted). Even then, a substantial burden on an inmate’s religion is permitted if it “is 8 reasonably related to legitimate penological interests.”1 Turner v. Safley, 482 U.S. 78, 89 9 (1987). 10 Here, Patino has not satisfied the threshold requirement that he allege facts showing 11 that his need to possess the St. Jude necklace is “sincerely held” and “rooted in religious 12 belief.” See Malik, 16 F.3d at 333. In addition, he has failed to plausibly allege the exercise 13 of his religion was substantially burdened by the confiscation of his necklace. See Jones, 14 791 F.3d at 1031. Therefore, Plaintiff has failed to state a First Amendment free exercise 15 claim. See 28 U.S.C. §§ 1915(e)(2)(B)(ii) & 1915A(b)(1); Iqbal, 556 U.S. at 678. 16 3. Due Process 17 Next, Patino alleges that all four Defendants violated his right to due process by 18 confiscating his necklace. (ECF No. 1 at 5, 7.) The Due Process Clause of the Fourteenth 19 Amendment protects individuals from state deprivations of life,

liberty, or property without 20 due process of law. With respect to a prisoner's property, the Supreme Court has held that 21 "an unauthorized intentional deprivation of property" by a prison official constitutes a 22 violation of due process if a meaningful post-deprivation remedy for the loss is unavailable. 23 24 25 1 In determining whether a prison regulation is reasonably related to a legitimate penological interest, Courts consider: (1) whether there is a valid, rational connection between the regulation and the 26 interest used to justify the regulation; (2) whether prisoners retain alternative means of exercising the right at issue; (3) the impact the requested accommodation will have on inmates, prison staff, and prison 27 resources generally; and (4) whether the prisoner has identified easy alternatives to the regulation which could be implemented at a minimal cost to legitimate penological interests. *Beard v. Banks*, 548 U.S. 521, 28 1 *Hudson*, 468 U.S. at 533. 2 Here, Patino has an adequate post-deprivation remedy under California law; 3 therefore, he may not pursue a due process claim arising out of the alleged unlawful 4 confiscation of his personal property. *Barnett v. Centoni*, 31 F.3d 813, 816–17 (9th Cir. 5 1994) (citing Cal. Gov't Code §§ 810–95). Accordingly, he has failed to state a due process 6 claim. See 28 U.S.C. §§ 1915(e)(2)(B), 1915A(b); *Iqbal*, 556 U.S. at 678. 7 4. State Criminal Law and Regulations 8 Finally, while not raised as a separate claim, Plaintiff also appears to allege 9 Defendants' actions violated state criminal laws and regulations, including Sections 518– 10 21 and 484–90 of the California Penal Code, as well as Sections 3287 and 3413(a) of Title 11 15 of the California Code of Regulations. (ECF No. 1 at 7.) 12 "As a general rule, a violation of state law does not lead to liability under § 1983." 13 *Campbell v. Burt*, 141 F.3d 927, 930 (9th Cir. 1998). Specifically, Plaintiff's allegations 14 that Defendants violated California criminal law—even if true—are insufficient to state a 15 viable § 1983 claim. See *Ellis v. City of San Diego*, 176 F.3d 1183, 1189 (9th Cir. 1999) 16 (concluding the district court properly dismissed claims brought under several sections of 17 the California Penal Code because those code sections did not create enforceable individual 18 rights). In addition, a failure to adhere to prison regulations and guidelines does not, 19 without more, violate a federal constitutional right. *Cousins v. Lockyer*, 568 F.3d 1063, 20 1070 (9th Cir. 2009) ("[S]tate departmental regulations do not establish a federal 21 constitutional violation."); see also *Nible v. Fink*, 828 F. App'x 463, 464 (9th Cir. 2020) 22 (affirming dismissal of claims based on violations of Title 15 of the California Code of 23 Regulations because the regulations did not create private right of action). Therefore, to 24 the extent Plaintiff seeks relief based on purported violations of state laws and regulations 25 he fails to state a claim. See 28 U.S.C. §§ 1915(e)(2)(B), 1915A(b). 26 27 28 1 D. Leave to Amend 2 In light of his pro se status, the Court grants Plaintiff leave to amend his pleading 3 ||and address the pleading deficiencies identified above. See *Rosati v. Igbinoso*, 791 F.3d 4 || 1037, 1039 (9th Cir. 2015) ("A district court should not dismiss a pro se complaint without 5 || leave to amend unless it is absolutely clear that the deficiencies of the complaint could not 6 cured by amendment.") (quoting *Akhtar v. Mesa*, 698 F.3d 1202, 1212 (9th Cir. 2012)).

7 CONCLUSION AND ORDER

8 For the foregoing reasons, the Court: 9 1. DISMISSES Plaintiff's Complaint (ECF No. 1) in its
entirety for failure to 10 a claim pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A(b). 11 2.
GRANTS Plaintiff forty-five (45) days leave from the date of this Order in 12 || which to file a
First Amended Complaint which cures the pleading deficiencies discussed 13 ||above. Plaintiff's
First Amended Complaint must be complete by itself without reference 14 || to his previous
pleadings. See S.D. Cal. CivLR 15.1; Hal Roach Studios, Inc. v. Richard 15 ||Feiner & Co., Inc.,
896 F.2d 1542, 1546 (9th Cir. 1989) (“[A]n amended pleading 16 || supersedes the original.”). 17
If Plaintiff fails to timely file a First Amended Complaint, the Court will enter a final 18 || Order
dismissing this civil action based both on failure to state a claim upon which relief 19 be granted
pursuant to 28 U.S.C. § 1915(e)(2)(B)(ai) and § 1915A(b)(1), and failure to 20 || prosecute in
compliance with a court order requiring amendment. See Lira v. Herrera, 427 21 || F.3d 1164, 1169
(9th Cir. 2005) (“If a plaintiff does not take advantage of the opportunity 22 fix his complaint, a
district court may convert the dismissal of the complaint into 23 || dismissal of the entire action.”).
24 IT IS SO ORDERED. 25 26 || DATED: June 4, 2025 yatta Bihar 27 Hon. Cynthia Bashant,
Chief Judge 38 United States District Court