

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

Forrest C. Taylor v. J. Leatherman, et al.

Taylor v. Leatherman · No. 2:25-cv-1100 CSK P · Decided May 28, 2025

OPINION

(PC) Taylor v. Leatherman

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 FORREST C. TAYLOR, No. 2:25-cv-1100 CSK P

12 Plaintiff, ORDER 13 v. 14 J. LEATHERMAN, et al., 15 Defendants. 16 17 Plaintiff is a state
prisoner proceeding pro se. Plaintiff seeks relief pursuant to 42 U.S.C. 18 § 1983 and requested
leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. This 19 proceeding was referred
to this Court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1). 20 Plaintiff submitted a
declaration that makes the showing required by 28 U.S.C. § 1915(a). 21 Accordingly, the request
to proceed in forma pauperis is granted. 22 Plaintiff is required to pay the statutory filing fee of
\$350.00 for this action. 28 U.S.C. 23 §§ 1914(a), 1915(b)(1). By this order, plaintiff is assessed an
initial partial filing fee in 24 accordance with the provisions of 28 U.S.C. § 1915(b)(1). By
separate order, the Court will 25 direct the appropriate agency to collect the initial partial filing fee
from plaintiff's trust account 26 and forward it to the Clerk of the Court. Thereafter, plaintiff is
obligated to make monthly 27 payments of twenty percent of the preceding month's income
credited to plaintiff's trust account. 28 These payments will be forwarded by the appropriate
agency to the Clerk of the Court each time 1 the amount in plaintiff's account exceeds \$10.00,
until the filing fee is paid in full. 28 U.S.C. 2 § 1915(b)(2). 3 As discussed below, plaintiff's
complaint is dismissed with leave to amend.

4 I. SCREENING STANDARDS

5 The court is required to screen complaints brought by prisoners seeking relief against a 6
governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The 7
court must dismiss a complaint or portion thereof if the prisoner raised claims that are legally 8
“frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek 9
monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1), (2).
10 A claim is legally frivolous when it lacks an arguable basis either in law or in fact. 11 *Neitzke*
v. Williams, 490 U.S. 319, 325 (1989); *Franklin v. Murphy*, 745 F.2d 1221, 1227-28 (9th

12 Cir. 1984). The court may, therefore, dismiss a claim as frivolous when it is based on an
13 indisputably meritless legal theory or where the factual contentions are clearly baseless.
Neitzke, 14 490 U.S. at 327. The critical inquiry is whether a constitutional claim, however
inartfully 15 pleaded, has an arguable legal and factual basis. See *Jackson v. Arizona*, 885 F.2d
639, 640 (9th

16 Cir. 1989), superseded by statute as stated in *Lopez v. Smith*, 203 F.3d 1122, 1130-31 (9th Cir.
17 2000) (“[A] judge may dismiss [in forma pauperis] claims which are based on indisputably 18
meritless legal theories or whose factual contentions are clearly baseless.”); *Franklin*, 745 F.2d at
19 1227.

20 Rule 8(a)(2) of the Federal Rules of Civil Procedure “requires only ‘a short and plain
21 statement of the claim showing that the pleader is entitled to relief,’ in order to ‘give the 22
defendant fair notice of what the . . . claim is and the grounds upon which it rests.’” *Bell Atlantic*
23 *Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (quoting *Conley v. Gibson*, 355 U.S. 41, 47
(1957)). 24 In order to survive dismissal for failure to state a claim, a complaint must contain
more than “a 25 formulaic recitation of the elements of a cause of action;” it must contain factual
allegations 26 sufficient “to raise a right to relief above the speculative level.” *Bell Atlantic*, 550
U.S. at 555. 27 However, “[s]pecific facts are not necessary; the statement [of facts] need only
‘give the 28 defendant fair notice of what the . . . claim is and the grounds upon which it rests.’”
Erickson v. 1 Pardus, 551 U.S. 89, 93 (2007) (quoting *Bell Atlantic*, 550 U.S. at 555, citations and
internal 2 quotations marks omitted). In reviewing a complaint under this standard, the court must
accept as 3 true the allegations of the complaint in question, *Erickson*, 551 U.S. at 93, and
construe the 4 pleading in the light most favorable to the plaintiff. *Scheuer v. Rhodes*, 416 U.S.
232, 236 5 (1974), overruled on other grounds, *Davis v. Scherer*, 468 U.S. 183 (1984).

6 II. THE CIVIL RIGHTS ACT

7 To state a claim under § 1983, a plaintiff must demonstrate: (1) the violation of a federal 8
constitutional or statutory right; and (2) that the violation was committed by a person acting under
9 the color of state law. See *West v. Atkins*, 487 U.S. 42, 48 (1988); *Jones v. Williams*, 297 F.3d 10
930, 934 (9th Cir. 2002). An individual defendant is not liable on a civil rights claim unless the 11
facts establish the defendant’s personal involvement in the constitutional deprivation or a causal
12 connection between the defendant’s wrongful conduct and the alleged constitutional
deprivation. 13 See *Hansen v. Black*, 885 F.2d 642, 646 (9th Cir. 1989); *Johnson v. Duffy*, 588
F.2d 740, 743-44 14 (9th Cir. 1978). That is, plaintiff may not sue any official on the theory that
the official is liable 15 for the unconstitutional conduct of his or her subordinates. *Ashcroft v.*
Iqbal, 556 U.S. 662, 679 16 (2009). The requisite causal connection between a supervisor’s
wrongful conduct and the 17 violation of the prisoner’s constitutional rights can be established in
a number of ways, including 18 by demonstrating that a supervisor’s own culpable action or
inaction in the training, supervision, 19 or control of his subordinates was a cause of plaintiff’s
injury. *Starr v. Baca*, 652 F.3d 1202, 20 1208 (9th Cir. 2011).

21 III. PLAINTIFF’S COMPLAINT

22 Plaintiff raises four separate claims, as follows. In his first claim alleging failure to 23 protect, plaintiff alleges that defendants A. Konrad, A. Oyazabol, J. Lynch, D. Heinkel, C. Pierce, 24 and J. Leatherman subjected plaintiff to “intimidation, abuse, harassment, and “other violations of 25 law,” and failed to “adequately supervise.” (ECF No. 1 at 4.) In his second claim alleging 26 violation of plaintiff’s Eighth Amendment right to have personal safety, plaintiff claims 27 defendants A. Konrad, A. Oyazabol, J. Lynch, D. Heinkel, C. Pierce, and J. Leatherman “knew of 28 and disregarded an excessive risk to plaintiff’s health and safety,” and “acted with deliberate 1 indifference to plaintiff’s personal safety and subjected him to unnecessary pain” and 2 “psychological distress.” (Id. at 7.) In the third claim alleging Eighth Amendment deliberate 3 indifference, plaintiff claims that defendants A. Konrad, A. Oyazabol, J. Lynch, D. Heinkel, C. 4 Pierce, and J. Leatherman “knew or should have known that their conduct, attitudes, and actions 5 created an unreasonable risk of serious harm to plaintiff” by their deliberate indifference to 6 plaintiff’s Eighth Amendment rights. (Id. at 10-11.) In his fourth claim alleging retaliation for 7 protected speech in violation of the First Amendment, “causally associated with Eighth 8 Amendment,” plaintiff asserts that defendants A. Konrad, A. Oyazabol, D. Heinkel, C. Pierce, 9 and J. Leatherman violated plaintiff’s right to free speech by “actions of intimidation, harassment, 10 retaliation, abuse and other violations of law against plaintiff.” (Id. at 13.) He claims 11 defendants 11 retaliated against plaintiff for exercising his First Amendment right to “petition, or redress a 12 grievance,” and took adverse action against plaintiff to chill or silence him. (Id. at 14.) 13 Following the above causes of action, plaintiff appends a diary style “Facts of Case,” in 14 which he recounts events beginning on August 4, 2021, and including information concerning his 15 unrelated eye injury, how he had to jump up on the bed to speak to another inmate through the 16 vent, and other comments. (Id. at 15-22.) 17 As a result of these alleged violations, plaintiff suffered a chipped and cracked front tooth, 18 and required four to five stitches to his lip, shame, humiliation, degradation, emotional distress, 19 PTSD, embarrassment, mental distress and other injuries. (Id. at 6, 8-9, 10-12, 14.) Plaintiff 20 seeks a declaratory judgment and money damages.

21 IV. DISCUSSION

22 The Court finds the allegations in plaintiff’s complaint so vague and conclusory that it is 23 unable to determine whether the current action is frivolous or fails to state a claim for relief. 24 Plaintiff is advised that he must specifically set forth what each named defendant did or did not 25 do that violated plaintiff’s constitutional rights. The Court (and the defendants) are not required 26 to dig through plaintiff’s “Facts of Case” to attempt to figure out what actions or omissions 27 plaintiff claims a defendant did or did not do that violated plaintiff’s rights. 28 /// 1 Further, the federal rules contemplate brevity. See *Galbraith v. County of Santa Clara*, 2 307 F.3d 1119, 1125 (9th Cir. 2002) (noting that “nearly all of the circuits have now disapproved 3 any heightened pleading standard in cases other than those governed by Rule 9(b).”); Fed. R. Civ. 4 P. 84; cf. Rule 9(b) (setting forth rare exceptions to simplified pleading). Plaintiff’s claims must 5 be set forth in

short and plain terms, simply, concisely and directly. See *Swierkiewicz v. Sorema* 6 N.A., 534 U.S. 506, 514 (2002) (“Rule 8(a) is the starting point of a simplified pleading system, 7 which was adopted to focus litigation on the merits of a claim.”); Fed. R. Civ. P. 8. Plaintiff must 8 eliminate from plaintiff’s pleading all preambles, introductions, speeches, explanations, stories, 9 summaries, and the like. See *McHenry v. Renne*, 84 F.3d 1172, 1180 (9th Cir. 1996) (affirming 10 dismissal of § 1983 complaint for violation of Rule 8 after warning); see *Crawford-El v. Britton*, 11 523 U.S. 574, 597 (1998) (reiterating that “firm application of the Federal Rules of Civil 12 Procedure is fully warranted” in prisoner cases). The Court (and defendants) should be able to 13 read and understand plaintiff’s pleading within minutes. See *McHenry*, 84 F.3d at 1177. A long, 14 rambling pleading, including many defendants with unexplained, tenuous or implausible 15 connection to the alleged constitutional injury or joining a series of unrelated claims against many 16 defendants, very likely will result in delaying the review required by 28 U.S.C. § 1915 and an 17 order dismissing plaintiff’s action pursuant to Fed. R. Civ. P. 41 for violation of these 18 instructions. 19 In addition, throughout the “Facts of the Case,” plaintiff refers to exhibits, but no exhibit 20 was attached. (ECF No. 1 at 18:6, 19:1, 19:11, 20:5, 22:28.) 21 The Court determines that the complaint does not contain a short and plain statement as 22 required by Fed. R. Civ. P. 8(a)(2). Although the Federal Rules adopt a flexible pleading policy, 23 a complaint must give fair notice and state the elements of the claim plainly and succinctly. *Jones* 24 v. Cmty. Redev. Agency, 733 F.2d 646, 649 (9th Cir. 1984). Plaintiff must allege with at least 25 some degree of particularity overt acts which defendants engaged in that support plaintiff’s claim. 26 *Id.* Because plaintiff failed to comply with the requirements of Fed. R. Civ. P. 8(a)(2), the 27 complaint must be dismissed. However, the Court grants plaintiff leave to file an amended 28 complaint.

1 V. GUIDANCE REGARDING LEGAL STANDARDS

2 In an effort to assist plaintiff in drafting the amended complaint, plaintiff is provided the 3 following standards governing the claims raised in his complaint. 4 A. Failure to Protect 5 The Eighth Amendment requires prison officials to take reasonable measures to guarantee 6 the safety of prisoners. See *Farmer v. Brennan*, 511 U.S. 825, 832 (1994). In particular, prison 7 officials have an affirmative duty “to protect prisoners from violence at the hands of other 8 prisoners.” *Id.* at 833 (internal quotation marks and citation omitted); see also *Robins v.* 9 *Meecham*, 60 F.3d 1436, 1442 (9th Cir. 1995) (“[A] prison official can violate a prisoner’s Eighth 10 Amendment rights by failing to intervene.”). There are two components to an Eighth 11 Amendment claim based on a prison official’s failure to protect an inmate from an attack by other 12 inmates: (1) an objective component, requiring the prisoner to show that that “conditions pos[ed] 13 a substantial risk of serious harm”; and (2) a subjective component, requiring the prisoner to show 14 that the defendant was aware of the risk and disregarded it. *Farmer*, 511 U.S. at 834 (citing 15 *Wilson v. Seiter*, 501 U.S. 294, 297-98 (1991)). “In determining whether a deprivation is 16 sufficiently serious to satisfy the objective component of an Eighth Amendment claim, a court 17 must consider the circumstances, nature, and duration of the deprivation and determine whether 18 they

pose an intolerable risk of serious harm.” *Finkle v. Ryan*, 174 F. Supp. 3d 1174, 1190 (D. 19 Ariz. Mar. 30, 2016) (citing *Farmer*, 511 U.S. at 834). The necessary state of mind for the 20 subjective component of an Eighth Amendment claim is “deliberate indifference.” *Farmer*, 511 21 U.S. at 834. “A prison official is liable under the Eighth Amendment for failing to guarantee the 22 safety of a prisoner if . . . the official knows of and disregards an excessive risk to inmate health 23 or safety.” *Finkle*, 174 F. Supp. 3d at 1190 (citing *Farmer*, 511 U.S. at 837). 24 Plaintiff is cautioned that he must set forth specific facts that demonstrate how each 25 defendant acted with a culpable state of mind; he cannot simply state that “defendant was 26 deliberately indifferent,” or “defendant acted with a culpable state of mind.” Plaintiff must 27 identify facts that demonstrate the elements required to plead an Eighth Amendment failure to 28 protect claim as to each named defendant. 1 B. False Report 2 A “complaint alleging that an officer filed a false report, by itself, fails to state a claim 3 upon which relief can be granted.” *Koch v. Austin*, 2006 WL 403818, at *5 (E.D. Cal. Feb. 16, 4 2006), adopted by 2006 WL 842585 (Mar. 28, 2006). A cognizable claim is stated only if there is 5 evidence that the false report was retaliatory, or the inmate is not afforded procedural due process 6 in the hearing on the disciplinary charge. See *Pratt v. Rowland*, 769 F. Supp. 1128, 1134 (N.D.

7 Cal. 1991) (filing false report states a claim only if retaliatory); *Freeman v. Rideout*, 808 F.2d 8 949, 953 (2d Cir. 1986) (guards’ “filing of unfounded charges did not give rise to a per se 9 constitutional violation actionable under section 1983”); *Sprouse v. Babcock*, 870 F.2d 450, 452 10 (9th Cir. 1989) (claim based on falsity of charges, standing alone, did not state a constitutional 11 claim); *Hanrahan v. Lane*, 747 F.2d 1137, 1140-41 (7th Cir. 1984) (guards’ fabrication of 12 evidence does not state a claim if procedural protections are provided during disciplinary 13 hearing). 14 C. Retaliation 15 “Prisoners have a First Amendment right to file grievances against prison officials and to 16 be free from retaliation for doing so.” *Watison v. Carter*, 668 F.3d 1108, 1114 (9th Cir. 2012) 17 (citing *Brodheim v. Cry*, 584 F.3d 1262, 1269 (9th Cir. 2009)). A viable retaliation claim in the 18 prison context has five elements: “(1) An assertion that a state actor took some adverse action 19 against an inmate (2) because of (3) that prisoner’s protected conduct, and that such action 20 (4) chilled the inmate’s exercise of his First Amendment rights, and (5) the action did not 21 reasonably advance a legitimate correctional goal.” *Rhodes v. Robinson*, 408 F.3d 559, 567-68 22 (9th Cir. 2005). Because timing is often critical in analyzing retaliation claims, plaintiff should 23 make clear when he exercised the protected conduct, as well as when each defendant took the 24 identified adverse action. 25 D. Harassment 26 Allegations of harassment, embarrassment, and defamation are not cognizable under 27 section 1983. *Rutledge v. Arizona Bd. of Regents*, 660 F.2d 1345, 1353 (9th Cir. 1981), *aff’d sub* 28 *nom.* *Kush v. Rutledge*, 460 U.S. 719 (1983); see also *Franklin v. Oregon*, 662 F.2d 1337, 1344 1 (9th Cir. 1982) (allegations of harassment with regards to medical problems not cognizable); 2 *Ellingburg v. Lucas*, 518 F.2d 1196, 1197 (8th Cir. 1975) (Arkansas state prisoner does not have 3 cause of action under § 1983 for being called obscene name by prison employee); *Batton v. North* 4

Carolina, 501 F. Supp. 1173, 1180 (E.D.N.C. 1980) (mere verbal abuse by prison officials does not state claim under § 1983). Nor are allegations of mere threats cognizable. See *Gaut v. Sunn*, 6810 F.2d 923, 925 (9th Cir. 1987) (mere threat does not constitute constitutional wrong, nor do allegations that naked threat was for purpose of denying access to courts compel contrary result). 8 E. Failure to Supervise 9 Plaintiff names Warden J. Lynch as a defendant, but included no facts as to defendant J. 10 Lynch's personal involvement in plaintiff's "Facts of the Case." (ECF No. 1 at 15-22.) Plaintiff 11 is advised that defendant J. Lynch cannot be held liable on the ground that, as a supervisor, he is 12 liable for the conduct of his subordinates. Under section 1983, plaintiff must prove that the 13 defendants holding supervisory positions personally participated in the deprivation of his rights or 14 failed to act knowing of the violations. See *Jones v. Williams*, 297 F.3d 930, 934 (9th Cir. 2002). 15 There is no respondeat superior liability, and each defendant is only liable for his or her own 16 misconduct. *Iqbal*, 556 U.S. at 677. A supervisor may be held liable for the constitutional 17 violations of his or her subordinates only if he or she "participated in or directed the violations, or 18 knew of the violations and failed to act to prevent them." *Taylor v. List*, 880 F.2d 1040, 1045 19 (9th Cir. 1989); *Corales v. Bennett*, 567 F.3d 554, 570 (9th Cir. 2009).

20 VI. LEAVE TO AMEND

21 If plaintiff chooses to amend the complaint, plaintiff must demonstrate how the conditions 22 about which he complains resulted in a deprivation of plaintiff's constitutional rights. See e.g., 23 *West*, 487 U.S. at 48. Also, the complaint must allege in specific terms how each named 24 defendant is involved. *Rizzo v. Goode*, 423 U.S. 362, 371 (1976). There can be no liability 25 under 42 U.S.C. § 1983 unless there is some affirmative link or connection between a defendant's 26 actions and the claimed deprivation. *Rizzo*, 423 U.S. at 371; *May v. Enomoto*, 633 F.2d 164, 167 27 (9th Cir. 1980). Furthermore, vague and conclusory allegations of official participation in civil 28 rights violations are not sufficient. *Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982). 1 In addition, plaintiff is informed that the court cannot refer to a prior pleading in order to 2 make plaintiff's amended complaint complete. Local Rule 220 requires that an amended 3 complaint be complete in itself without reference to any prior pleading. This requirement exists 4 because, as a general rule, an amended complaint supersedes the original complaint. See *Ramirez* 5 v. Cnty. of San Bernardino, 806 F.3d 1002, 1008 (9th Cir. 2015) ("an 'amended complaint 6 supersedes the original, the latter being treated thereafter as non-existent.'" (internal citation 7 omitted)). Once plaintiff files an amended complaint, the original pleading no longer serves any 8 function in the case. Therefore, in an amended complaint, as in an original complaint, each claim 9 and the involvement of each defendant must be sufficiently alleged. 10 Finally, plaintiff is required to file his amended complaint on the form civil rights 11 complaint provided by the Clerk of Court. Plaintiff's amended complaint shall not exceed 12 fifteen pages.

13 VII. ORDERS

14 In accordance with the above, IT IS HEREBY ORDERED that: 15 1. Plaintiff's requests for

leave to proceed in forma pauperis (ECF Nos. 4, 10) are 16 granted. 17 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. Plaintiff 18 is assessed an initial partial filing fee in accordance with the provisions of 28 U.S.C. 19 § 1915(b)(1). All fees shall be collected and paid in accordance with this court's order to the 20 Director of the California Department of Corrections and Rehabilitation filed concurrently 21 herewith. 22 3. Plaintiff's complaint is dismissed. 23 4. Within thirty days from the date of this order, plaintiff shall complete the attached 24 Notice of Amendment and submit the following documents to the court: 25 a. The completed Notice of Amendment; and 26 b. An original of the Amended Complaint. 27 Plaintiff's amended complaint shall be filed on the form civil rights complaint provided by the 28 Clerk of Court and shall not exceed fifteen pages. The amended complaint shall comply with this 1 | order, and with the requirements of the Civil Rights Act, the Federal Rules of Civil Procedure, 2 || and the Local Rules of Practice. The amended complaint must also bear the docket number 3 || assigned to this case and must be labeled "Amended Complaint." 4 Failure to file an amended complaint in accordance with this order may result in the 5 || dismissal of this action. 6 7 || Dated: May 27, 2025 4 aA Cn Ye \L

CHI SOO KIM

? UNITED STATES MAGISTRATE JUDGE

10 /V/tayl1100.14n 1] 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 10 1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

FORREST C. TAYLOR, No. 2:25-cv-1100 CSK P

11 Plaintiff, 12

v. NOTICE OF AMENDMENT

13 J. LEATHERMAN, et al., 14 Defendants. 15 16 17 Plaintiff submits the following document in compliance with the court's order 18 filed on _____ (date). 19 20 Amended Complaint on the Court's form civil rights 21 complaint and does not exceed fifteen pages. 22 (Check this box if submitting an Amended Complaint) 23 DATED: _____ 24 Plaintiff 25 26 27 28