

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

Crago v. Sacramento County Towing Enforcement Supervisor

No. 2:25-cv-00086-DC-CKD PS (E.D. Cal. Mar. 28, 2025) · No. 2:25-cv-00086-DC-CKD PS · Decided March
28, 2025

OPINION

(PS) Crago v. Sacramento County Towing Enforcement Supervisor
PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 MARY CRAGO, No. 2:25-cv-00086-DC-CKD PS

12 Plaintiff, 13 v. ORDER 14

SACRAMENTO COUNTY TOWING

15 ENFORCEMENT SUPERVISOR, et. al., 16 Defendants. 17 18 Plaintiff, proceeding without
counsel in this action, requests leave to proceed in forma 19 pauperis (“IFP”).¹ (ECF No. 2.) See
28 U.S.C. § 1915 (authorizing the commencement of an 20 action “without prepayment of fees or
security” by a person who is unable to pay such fees). 21 Plaintiff’s application makes the
showing required by 28 U.S.C. § 1915 so her motion to proceed 22 in forma pauperis will be
granted. 23 I. Screening Requirement 24 Pursuant to 28 U.S.C. § 1915(e), the court must screen
every in forma pauperis 25 proceeding, and must order dismissal of the case if it is “frivolous or
malicious,” “fails to state a 26 claim on which relief may be granted,” or “seeks monetary relief
against a defendant who is 27 1 Actions in which a party proceeds without counsel are referred to
a magistrate judge pursuant to 28 E.D. Cal. L.R. 302(c)(21). See 28 U.S.C. § 636(b)(1) and Fed.
R. Civ. P. 72. 1 immune from such relief.” 28 U.S.C. § 1915(e)(2)(B); *Lopez v. Smith*, 203 F.3d
1122, 1126-27 2 (2000). A claim is legally frivolous when it lacks an arguable basis either in law
or in fact. 3 *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). In reviewing a complaint under this
standard, the 4 court accepts as true the factual allegations contained in the complaint, unless they
are clearly 5 baseless or fanciful, and construes those allegations in the light most favorable to the
plaintiff. 6 See *Neitzke*, 490 U.S. at 327; *Von Saher v. Norton Simon Museum of Art at Pasadena*,
592 F.3d 7 954, 960 (9th Cir. 2010), cert. denied, 564 U.S. 1037 (2011). 8 Pro se pleadings are
held to a less stringent standard than those drafted by lawyers. *Haines 9 v. Kerner*, 404 U.S. 519,
520 (1972). However, the court need not accept as true conclusory 10 allegations, unreasonable
inferences, or unwarranted deductions of fact. *Western Mining Council 11 v. Watt*, 643 F.2d 618,
624 (9th Cir. 1981). A formulaic recitation of the elements of a cause of 12 action does not suffice

to state a claim. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-57 13 (2007); *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). 14 To state a claim on which relief may be granted, the plaintiff must allege enough facts “to 15 state a claim to relief that is plausible on its face.” *Twombly*, 550 U.S. at 570. “A claim has facial 16 plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable 17 inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 678. A pro se 18 litigant is entitled to notice of the deficiencies in the complaint and an opportunity to amend 19 unless the complaint’s deficiencies could not be cured by amendment. See *Noll v. Carlson*, 809 20 F.2d 1446, 1448 (9th Cir. 1987), superseded on other grounds by statute as stated in *Lopez v. 21 Smith*, 203 F.3d 1122 (9th Cir. 2000) (en banc). 22 II. Plaintiff’s Allegations 23 Plaintiff’s truck and RV were towed after Sacramento County Sheriff’s Department 24 deputies were called to the Napa Auto Parts store for a trespassing complaint. (ECF No. 1 at 13.) 25 This happened despite the store clerk confirming that plaintiff had been in the store and made a 26 purchase. (Id. at 14.) Unnamed deputies informed plaintiff that the vehicles were being towed 27 because plaintiff was not licensed and had no insurance. (Id.) The vehicles were towed to 28 different tow yards which caused “excessive fines.” (Id. at 20.) 1 Plaintiff alleges a violation of her federal civil rights. (ECF No.1 at 4.) The defendants 2 named in the complaint are Sacramento County Towing Enforcement Supervisor, Sacramento 3 County Towing Enforcement Clerk, Sal Mendoza, College Oak Towing Driver and Clerk, 4 Internal Affairs, Lien Machine Inc., Curtis Waters Sacramento County Sheriff, Sacramento 5 County Sheriff Officer #2, Napa Auto Parts Store Clerk, and Napa Auto Parts Corporate Office.

6 Id. at 9-12.

7 III. The complaint fails to state a claim. 8 To state a claim under the Civil Rights Act, 42 U.S.C. § 1983, a plaintiff must allege two 9 essential elements: (1) that a right secured by the Constitution or laws of the United States was 10 violated, and (2) that the alleged violation was committed by a person acting under the color of 11 state law. *West v. Atkins*, 487 U.S. 42, 48 (1988). The court considers below whether plaintiff has 12 alleged an unreasonable seizure under the Fourth Amendment, a violation of Excessive Fines 13 Clause of the Eighth Amendment, or a Due Process violation to meet the essential elements for a 14 claim under the Civil Rights Act. 15 A. Fourth Amendment 16 The Fourth Amendment protects the “right of people to be secure in their persons, houses, 17 papers, and effects, against unreasonable searches and seizures.” U.S. CONST. amend. IV. A 18 seizure of property occurs when there is some meaningful interference with an individual’s 19 possessory interests in that property. *Soldal v. Cook County, Ill.*, 506 U.S. 56, 61 (1992). The 20 impoundment of plaintiff’s vehicle was a seizure within the meaning of the Fourth Amendment. 21 Police officers are permitted to impound vehicles pursuant to the community caretaker 22 exception to the Fourth Amendment. *South Dakota v. Opperman*, 428 U.S. 364, 368 (1976). 23 Whether a vehicle may be impounded under the community caretaking doctrine “depends on the 24 location of the vehicle and the police officer’s duty to prevent it from creating a hazard to other 25 drivers or from being a target for vandalism or theft.” United States

v. Caseres, 533 F.3d 1064, 26 1075 (9th Cir. 2008); Hallstrom v. Garden City, 991 F.2d 1473, 1477 n.4 (9th Cir. 1993) 27 (upholding the towing of a car from a public parking lot following the driver's arrest pursuant to 28 the community caretaking exception of the warrant requirement). 1 Here, plaintiff alleges the impoundment occurred after she was falsely accused of 2 trespassing, based on her suspended registration and driver's license. (ECF No. 1 at 14.) Plaintiff 3 avers that because she was not trespassing there was no basis for impoundment. (Id. at 18.) "The 4 reasonableness of any particular governmental activity does not necessarily or invariably turn on 5 the existence of alternative 'less intrusive' means." Colorado v. Bertine, 479 U.S. 367, 373 (1987) 6 (quoting Illinois v. Lafayette, 462 U.S. 640, 647 (1983)). This means that police have no Fourth 7 Amendment obligation to offer a driver an opportunity to avoid impoundment. Bertine, 479 U.S. 8 at 373 (rejecting argument that the Fourth Amendment required police to give opportunity to 9 make other arrangements). 10 The allegations in the complaint do not state a claim for a violation of plaintiff's rights 11 under the Fourth Amendment. The complaint does not describe any circumstances suggesting 12 impoundment was inconsistent with the community caretaking function in this instance. Plaintiff 13 has not pleaded any facts that plausibly suggest the seizure was unreasonable. Under Opperman, 14 "[t]he authority of police to seize and remove from the streets vehicles impeding traffic or 15 threatening public safety and convenience is beyond challenge." 428 U.S. at 369; see also 16 Hallstrom, 991 F.2d at 1478 n.4. 17 B. Excessive Fines 18 In addition to the impoundment of the vehicle, plaintiff challenges costs associated with 19 the towing of her vehicles. The excessive-fines clause of the Eighth Amendment "limits the 20 government's power to extract payments, whether in cash or kind, as punishment." United States 21 v. Bajakajian, 524 U.S. 321, 328, (1998) (quoting Austin v. United States, 509 U.S. 602, 609– 10 22 (1993)). However, a private towing-company charge is not a constitutionally actionable fine. 23 Andreaccio v. Weaver, 674 F.Supp.3d 1011, 1023 (D. Nev. 2023). 24 C. Due Process 25 Plaintiff also claims that she was deprived of constitutional due process when she was 26 "never allowed to present evidence" at "the tow hearing." (ECF No. 1 at 22.) The Fifth 27 Amendment "prohibits the federal government from depriving persons of due process, while the 28 Fourteenth Amendment explicitly prohibits deprivations without due process by the several 1 states." Castillo v. McFadden, 399 F.3d 993, 1002 n.5 (9th Cir. 2005). Due-process claims can be 2 sorted into two types: (1) those brought under the substantive component of the due-process 3 clause, which "bars certain arbitrary, wrongful government actions, 'regardless of the fairness of 4 the procedures used to implement them[,]'" and (2) those brought under the procedural 5 component of the due-process clause, which prohibits deprivations of life, liberty, or property 6 without fair procedure. Zinermon v. Burch, 494 U.S. 113, 125 (1990) (quoting Daniels v. 7 Williams, 474 U.S. 327, 331 (1986)). Although not directly stated, plaintiff seems to suggest a 8 procedural due process claim. To prevail on this claim, plaintiff must prove that she was denied a 9 specified liberty or property interest protected under the due-process clause and that she was 10 deprived of that interest without the constitutionally required procedures. Swarthout v. Cooke, 11 562 U.S. 216, 219,

(2011). 12 In this case, however, plaintiff is challenging the procedures of the towing companies. As 13 the towing companies are private companies, plaintiff's claims regarding her due process rights 14 must fail. 15 IV. Conclusion and Order 16 The complaint fails to state a claim for a violation of plaintiff's federal civil rights and 17 must be dismissed. Plaintiff is granted leave to file an amended complaint within the time frame 18 set forth below. See *Lucas v. Dep't of Corr.*, 66 F.3d 245, 248 (9th Cir. 1995); Fed. R. Civ. P. 19 15(a) (Leave to amend should be "freely given when justice so requires."). 20 If plaintiff elects to file an amended complaint, it should be titled "First Amended 21 Complaint" and reference the appropriate case number. An amended complaint must be complete 22 in itself without reference to any prior pleading. See *Loux v. Rhay*, 375 F.2d 55, 57 (9th Cir. 23 1967); Local Rule 220. If plaintiff elects to file an amended complaint, the complaint should 24 allege in specific terms how each named defendant is involved in the alleged violations. 25 In accordance with the above, IT IS ORDERED: 26 1. Plaintiff's motion to proceed in forma pauperis (ECF No. 2) is GRANTED; 27 2. Plaintiff's complaint (ECF No. 1) is dismissed for failure to state a claim; 28 3. Plaintiff is granted thirty (30) days from the date of service of this order to file an 1 | amended complaint that complies with the requirements of the Federal Rules of Civil Procedure 2 | and the Local Rules of Practice; the amended complaint must bear the docket number assigned 3 || this case and must be labeled "First Amended Complaint"; plaintiff is cautioned that failure to file 4 || an amended complaint or otherwise respond to this order will result in a recommendation that this 5 || action be dismissed. 6 | Dated: March 28, 2025 / hie ANKE) flo

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8 UNITED STATES MAGISTRATE JUDGE

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