

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

Carlos Gilbert Law v. Zuniga, et al.

Law v. Zuniga · No. 25-cv-04812-SI · Decided July 8, 2025

OPINION

1 2 3 4 UNITED STATES DISTRICT COURT 5 NORTHERN DISTRICT OF CALIFORNIA 6 7
CARLOS GILBERT LAW, Case No. 25-cv-04812-SI 8 Plaintiff, ORDER SCREENING AND 9 v.
DISMISSING AMENDED COMPLAINT 10 ZUNIGA, et al., Re: Dkt. No. 8 11 Defendants. 12
13 On June 6, 2025, plaintiff filed a complaint in this Court alleging that a San Francisco police
14 officer violated his rights under the Eighth and Fourteenth Amendments to the Constitution due
to 15 a failure to protect him and a denial of equal protection under the law.

Dkt. No. 1. Plaintiff filed a 16 motion to proceed with in forma pauperis status, which the Court
granted. See Dkt. Nos. 2, 6. The 17 Court then screened plaintiff's complaint pursuant to 28
U.S.C. § 1915(e)(2)(B). Finding it failed 18 to state a valid claim, the Court dismissed the
complaint with leave to amend. Dkt. No. 6. 19 Plaintiff then filed an amended complaint on June
30, followed by a supporting affidavit on 20 July 8, 2025.

Dkt. Nos. 8, 9. For the reasons stated below, the Court DISMISSES plaintiff's 21 amended
complaint without leave to amend. 22 23 BACKGROUND 24 Plaintiff's amended complaint
brings claims against the same San Francisco police officer 25 and adds two unnamed police
supervisors as defendants, identifying them by their badge numbers. 26 Dkt. No. 8.

The amended complaint repeats the basic facts of the original complaint, which the 27 Court's
prior order summarized as follows: of Urban Alchemy named Rasheed who works in the area of 1
Stevenson Alley attacked him in front of his nearby San Francisco residence and took his
sunglasses. Plaintiff called 911 multiple times 2 and a San Francisco police officer with badge
number 4865—the unnamed defendant in this case—responded.

Plaintiff told the officer 3 that his life was in danger. The officer was able to retrieve the
sunglasses and return them to plaintiff but did not make any arrests. 4 As a result, plaintiff alleges
that he continues to be threatened by Rasheed and remains in danger. 5 Dkt. No. 6 at 1-2 (footnote
and citations omitted). 6 The amended complaint further alleges that the Urban Alchemy
supervisor from whom the 7 police officer had retrieved the sunglasses assaulted plaintiff five
weeks later, on June 22, 2025.

8 Dkt. No. 8 at 4. Plaintiff dialed 911 and two police officers responded. Id. at 5. Plaintiff alleges 9
the officers refused to call an ambulance on his behalf and left without making any arrests. Id. In

10 his subsequent affidavit, plaintiff details how the Urban Alchemy supervisor continued to intimidate 11 plaintiff and call him a “snitch” on July 5 and 6, 2025.

Dkt. No. 9 at 1-2. 12 Plaintiff asserts claims against all three officers that responded to the two incidents under 13 the due process clause of the Fourth¹ and Fourteenth Amendments, citing denied medical care and 14 the state-created danger doctrine. Dkt. No. 8 at 6. Plaintiff seeks \$50 million in compensatory 15 damages, \$950 million in punitive damages, and injunctive relief that prevents further violence from 16 Urban Alchemy employees.

Id. at 7. 17 18 LEGAL STANDARD 19 Federal courts are required to dismiss a case filed in forma pauperis if the action “(i) is 20 frivolous or malicious; (ii) fails to state a claim upon which relief may be granted; or (iii) seeks 21 monetary relief from a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2)(B); 22 *Lopez v. Smith*, 203 F.3d 1122, 1126-27 (9th Cir.

2000). For purposes of 28 U.S.C. § 1915, a 23 frivolous claim is one that “lacks an arguable basis either in law or fact.” *Neitzke v. Williams*, 490 24 U.S. 319, 325 (1989). When evaluating whether an IFP plaintiff has failed to state a claim, the Court 25 uses the same standard as for motions to dismiss brought under Federal Rule of Civil Procedure 26 27 1 12(b)(6).

Watson v. Carter, 668 F.3d 1108, 1112 (9th Cir. 2012). 2 To state a valid claim for relief, the complaint must contain “a short and plain statement of 3 the claim showing that the pleader is entitled to relief[.]” Fed. R. Civ. P. 8(a)(2).

The plaintiff must 4 allege “enough facts to state a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 5 550 U.S. 544, 570 (2007). The complaint need not contain “detailed factual allegations,” but the 6 plaintiff must “provide the grounds of his entitlement to relief,” which “requires more than labels 7 and conclusions”; a mere “formulaic recitation of the elements of a cause of action” is insufficient.

8 Id. at 555 (internal quotations omitted). 9 Pro se pleadings must be liberally construed. *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 10 696, 699 (9th Cir. 1990). Dismissal of a pro se complaint without leave to amend is proper only if 11 it is “absolutely clear that the deficiencies of the complaint could not be cured by amendment.” 12 *Akhtar v. Mesa*, 698 F.3d 1202, 1212 (9th Cir.

2012) (internal quotations and citation omitted). 13 14 DISCUSSION 15 Plaintiff’s amended complaint still fails to allege facts sufficient to state a plausible claim. 16 Plaintiff brings a substantive due process claim under the Fourteenth Amendment. “The 17 Fourteenth Amendment’s Due Process Clause generally does not provide an affirmative right to 18 government aid.” *Herrera v. Los Angeles Unified Sch.*

Dist., 18 F.4th 1156, 1158 (9th Cir. 2021) 19 (citation omitted). One exception to this rule comes in the form of the state-created danger doctrine, 20 which the Ninth Circuit opinion of *Martinez v.*

High succinctly describes: 21 Because the Due Process Clause is a limitation on state action, state actors generally are not liable for failing to prevent acts of private 22 parties.

But one exception to this rule applies when the state affirmatively places the plaintiff in danger by acting with deliberate 23 indifference to a known or obvious danger.... To establish the “state-created danger” exception, a plaintiff must 24 prove two things.

The officer’s affirmative conduct must expose the plaintiff to a foreseeable danger that she would not otherwise have 25 faced. And the officer must act with deliberate indifference to a known or obvious danger. 26 91 F.4th 1022, 1028-29 (9th Cir.), cert. denied, 145 S. Ct. 547 (2024) (internal quotation marks and 27 citations omitted).

The standard for deliberate indifference “is higher than gross negligence and 1 requires a culpable mental state.” *Murguia v. Langdon*, 61 F.4th 1096, 1111 (9th Cir. 2023), cert. 2 denied sub nom. *Tulare v. Murguia*, 144 S. Ct. 553 (2024). 3 Plaintiff here fails to allege facts sufficient to establish either part of the state-created danger 4 test. Defendants are not alleged to have committed any affirmative conduct that placed plaintiff in 5 a worse position, or “do anything to render [plaintiff] any more vulnerable.” See *DeShaney v. 6 Winnebago Cnty.*

Dep’t of Soc. Servs., 489 U.S. 189, 201 (1989). The officer responding to the first 7 call on May 14 retrieved and returned plaintiff’s sunglasses. Furthermore, plaintiff has not pled 8 sufficient facts to show that the officer acted with “deliberate indifference to a known or obvious 9 danger.” See *Martinez*, 91 F.4th at 1028-29. Plaintiff cannot say that the police violated his 10 constitutional rights because a third party seeks to retaliate against plaintiff for calling the police in 11 the first instance.

12 Turning to the two officers who responded to plaintiff’s June 22 call, plaintiff alleges that 13 they denied him access to medical attention by refusing to call an ambulance, then left without 14 making any arrests.

In other words, plaintiff is not aggrieved by affirmative conduct from the 15 officers but rather a lack of affirmative conduct. The state-created danger doctrine does not apply 16 in these circumstances. When a victim is injured by a third party, there is no general constitutional 17 right to medical treatment from government actors, unless the victim is detained by or in the custody 18 of the government.

See *Vinatieri v. Mosley*, 787 F. Supp. 2d 1022, 1032 (N.D. Cal. 2011), aff’d, 19 532 F. App’x 762 (9th Cir. 2013); see also *Est. of Soakai v. Abdelaziz*, 137 F.4th 969, 986 (9th Cir. 20 2025) (“[T]he dissenting opinion alleges that we have ruled that officers are required to render or 21 summon medical aid for civilians who are harmed by private actors. [Citation.]

Again, not so.”). 22 Plaintiff here was not arrested or detained and he has not alleged plausible facts to suggest 23 defendants neglected any constitutional duties when responding to his calls for service. 24 /// 25 /// 26 /// 27 /// 1 CONCLUSION 2 At this stage, the Court is convinced that the deficiencies of the complaint cannot be cured. 3 See Akhtar, 698 F.3d at 1212.

The Court therefore DISMISSES plaintiff's complaint without leave 4 || to amend because it fails to state a claim upon which relief may be granted. See 28 U.S.C. 5 § 1915(e)(2)(B). 6 7 IT IS SO ORDERED. 8 Dated: July 8, 2025 9 SUSAN ILLSTON 10 United States District Judge 11 12 15 16 = 17 Z 18 19 20 21 22 23 24 25 26 27 28