

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Mouzon v. Alameda County

Mouzon · No. 24-cv-01907-DMR (PR) · Decided October 3, 2025

OPINION

Mouzon v. Alameda County

PER CURIAM.

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3 UNITED STATES DISTRICT COURT

4 NORTHERN DISTRICT OF CALIFORNIA

5

ALFONSO MOUZON,

6 Case No. 24-cv-01907-DMR (PR) Plaintiff,

7 ORDER OF SERVICE

v. 8

ALAMEDA COUNTY,

9 Defendant. 10

11 I. INTRODUCTION

12 Plaintiff Alfonso Mouzon, who is a civil detainee currently being held at the Coalinga 13 State
Hospital, filed a pro se civil rights action pursuant to 42 U.S.C. § 1983, alleging Alameda 14
County jail officials violated his constitutional rights when he was transferred for three months in
15 2021 to the Alameda County Jail (“ACJ”), where he was temporarily housed during the
pendency 16 of civil commitment proceedings against him under the Sexually Violent Predators
Act, see Cal. 17 Welf. & Inst. Code § 6600 et seq. (“SVPA”). Dkt. 12 at 4.1 This matter has been
assigned to the 18 undersigned Magistrate Judge. Plaintiff’s motion for leave to proceed in forma
pauperis will be 19 granted in a separate written Order. The operative complaint is the amended
complaint. Id. 20 In his amended complaint, Plaintiff does not name any individual Defendants.
Id. Instead, 21 he names Defendant Alameda County in its official capacity as the “municipality
responsible for 22 the policies or the lack of policies, customs and practices guiding and
governing on enforcing the 23 conditions of confinement for [Sexually Violent Predators
(“SVPs”)] within the county jail.” Id. 24 Plaintiff seeks injunctive relief and monetary damages.
Id. at 8. 25 Venue is proper because certain events giving rise to the claims are alleged to have 26
occurred at ACJ, which is located in this judicial district. See 28 U.S.C. § 1391(b). 27

II. DISCUSSION

1 A. Standard of Review 2 A federal court must conduct a preliminary screening in any case in

which a prisoner seeks 3 redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. 4 § 1915A(a). In its review, the court must identify any cognizable claims and dismiss claims that 5 are frivolous, malicious, fail to state a claim upon which relief may be granted or seek monetary 6 relief from a defendant who is immune from such relief. *Id.* § 1915A(b)(1), (2). Pro se pleadings 7 must be liberally construed. *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1988). 8 Federal Rule of Civil Procedure 8(a)(2) requires only “a short and plain statement of the claim 9 showing that the pleader is entitled to relief.” To comport with Rule 8, “[s]pecific facts are not 10 necessary; the statement need only give the defendant fair notice of what the . . . claim is and the 11 grounds upon which it rests.” *Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (citations omitted). 12 Although to state a claim a complaint “does not need detailed factual allegations, . . . a plaintiff’s 13 obligation to provide the ‘grounds’ of his ‘entitle[ment] to relief’ requires more than labels and 14 conclusions, and a formulaic recitation of the elements of a cause of action will not do 15 Factual allegations must be enough to raise a right to relief above the speculative level.” *Bell Atl. 16 Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (citations omitted). A complaint must proffer 17 “enough facts to state a claim to relief that is plausible on its face.” *Id.* at 570. The Supreme 18 Court explained the “plausible on its face” standard of *Twombly*: “While legal conclusions can 19 provide the framework of a complaint, they must be supported by factual allegations. When there 20 are well-pleaded factual allegations, a court should assume their veracity and then determine 21 whether they plausibly give rise to an entitlement to relief.” *Ashcroft v. Iqbal*, 556 U.S. 662, 679 22

(2009). To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential elements:

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(1) that a right secured by the Constitution or laws of the United States was violated, and (2) that 24 the alleged violation was committed by a person acting under the color of state law. *West v. 25 Atkins*, 487 U.S. 42, 48 (1988). 26 B. Legal Claims 27 From July through September 2021, Plaintiff was housed at ACJ while awaiting his civil 1 commitment proceedings. Dkt. 12 at 4. 2 First, Plaintiff claims that Defendant Alameda County has a policy (“Policy”) of failing to 3 treat persons detained under the SVPA differently from the general prison population, in violation 4 of his Fourteenth Amendment rights. See generally, Dkt. 12; see also *Jones v. Blanas*, 393 F.3d 5 918 (9th Cir. 2004) (discussing similar claims). A civil detainee awaiting adjudication is entitled 6 to conditions of confinement that are not punitive; a presumption of punitive conditions arises 7 where such individual is detained under conditions identical or similar to, or more restrictive than, 8 those under which pretrial criminal detainees are held, or where such individual is detained under 9 conditions more restrictive than those he would face upon civil commitment. See *Jones*, 393 F.3d 10 at 934. If the presumption applies, a defendant is allowed to demonstrate the existence of 11 legitimate, non-punitive interests justifying the conditions under which the detainee was held, and 12 to show the restrictions imposed were not excessive in relation to such interests. See *id.* at 934-35. 13 Although not every objectionable condition or restriction to which a plaintiff is

subjected as a civil 14 detainee violates his federal constitutional rights, the allegations of Plaintiff herein, liberally 15 construed, are sufficient to state a cognizable claim under section 1983 for denial of the 16 protections to which he is entitled under the Due Process Clause. 17 Second, Plaintiff alleges that Defendant Alameda County is liable in its official capacity 18 for instituting and abiding by the aforementioned Policy, which 19 does not state, nor does any of the other policy, on how SVPs are to be treated, this makes the [Policy] deficient enough to cause violation 20 of rights . . . [as it] has left custom and practice then to become the standard operating procedure on how SVP[s] are to be treated . . . 21 [and] . . . these customs and practices do not hold up to the Jones . . . standard. 22 Dkt. 12 at 7. There is no respondeat superior liability under section 1983, i.e. no liability under 23 the theory that one is liable simply because he employs a person who has violated a plaintiff's 24 rights. See *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 691 (1978); *Taylor v. List*, 880 F.2d 1040, 25 1045 (9th Cir. 1989). Local governments, such as Defendant Alameda County, are “persons” 26 subject to liability under section 1983 where official policy or custom causes a constitutional tort. 27 See *Monell*, 436 U.S. at 690. To impose municipal liability under section 1983 for a violation of 1 constitutional rights, a plaintiff must show: “(1) that [the plaintiff] possessed a constitutional right 2 of which [he] was deprived; (2) that the municipality had a policy; (3) that this policy amounts to 3 deliberate indifference to the plaintiff’s constitutional right; and (4) that the policy is the moving 4 force behind the constitutional violation.” See *Plumeau v. Sch. Dist. #40 Cnty. of Yamhill*, 130 5 F.3d 432, 438 (9th Cir. 1997) (citations and internal quotation marks omitted). For municipal 6 liability, a plaintiff must plead sufficient facts regarding the specific nature of the alleged policy, 7 custom or practice to allow the defendant to effectively defend itself, and these facts must 8 plausibly suggest that the plaintiff is entitled to relief. See *AE v. Cnty. of Tulare*, 666 F.3d 631, 9 636-37 (9th Cir. 2012). Here, the court finds that, liberally construed, Plaintiff alleges facts 10 showing unconstitutional conditions at the ACJ as well as the Policy, which he claims is the 11 moving force behind the constitutional violation. See generally Dkt. 12. Therefore, the court 12 finds that Plaintiff has stated cognizable policy-based claim against Defendant Alameda County 13 under *Monell*. See 436 U.S. at 690.

14 III. CONCLUSION

15 For the foregoing reasons, the court orders as follows: 16 1. Plaintiff states a due process and *Monell* claim against Defendant Alameda County. 17 2. The Clerk of the Court shall serve Defendant Alameda County. 18 Service on the listed Defendant(s) shall proceed under the California Department of 19 Corrections and Rehabilitation’s (“CDCR”) e-service pilot program for civil rights cases from 20 prisoners in CDCR custody. In accordance with the program, the clerk is directed to serve on 21 CDCR via email the following documents: the operative complaint (Dkt. 12), this order of service, 22 the notice of assignment of prisoner case to a United States magistrate judge and accompanying 23 magistrate judge jurisdiction consent or declination to consent form, a CDCR Report of E-Service 24 Waiver form and a summons. 25 No later than

forty (40) days after service of this order via email on CDCR, CDCR shall provide the court a completed CDCR Report of E-Service Waiver advising the court which Defendant(s) listed in this order will be waiving service of process without the need for service by 1 could not be reached. CDCR also shall provide a copy of the CDCR Report of E-Service Waiver 2 and of the notice of assignment of prisoner case to a magistrate judge and accompanying 3 magistrate judge jurisdiction consent or declination to consent form to the California Attorney General's Office, which, within twenty-one (21) days, shall file with the court a waiver of service 5 of process for the Defendant(s) who are waiving service and, within twenty-eight (28) days 6 thereafter, shall file a magistrate judge jurisdiction consent or declination to consent form as to the 7 Defendant(s) who waived service. 8 Upon receipt of the CDCR Report of E-Service Waiver, the clerk shall prepare for each 9 Defendant who has not waived service according to the CDCR Report of E-Service Waiver a 10 USM-205 Form. The clerk shall provide to the USMS the completed USM-205 form and copies 11 of this order, summons, operative complaint and notice of assignment of prisoner case to a 12 magistrate judge and accompanying magistrate judge jurisdiction consent or declination to consent 13 form for service upon each defendant who has not waived service. The clerk also shall provide to 14 the USMS a copy of the CDCR Report of E-Service Waiver. 15 The clerk shall also mail a copy of the operative complaint and a copy of this order to the 16 State Attorney General's Office in San Francisco. Additionally, the clerk shall mail a copy of this 17 order to Plaintiff. 18 3. Defendant is cautioned that Rule 4 of the Federal Rules of Civil Procedure requires 19 Defendant to cooperate in saving unnecessary costs of service of the summons and operative 20 complaint. If service is waived, this action will proceed as if Defendant had been served on the 21 date that the waiver is filed, except that pursuant to Rule 12(a)(1)(A)(ii), Defendant will not be 22 required to serve and file an answer before sixty (60) days from the date on which the CDCR 23 provides a copy of the CDCR Report of E-Service Waiver to the California Attorney General's 24 Office. (This allows a longer time to respond than would be required if formal service of 25 summons is necessary.) If Defendant has not waived service and have instead been served by the 26 USMS, then Defendant shall serve and file an answer within twenty-one (21) days after being 27 served with the summons and operative complaint. 1 Rules of Civil Procedure. The following briefing schedule shall govern dispositive motions: 2 a. No later than sixty (60) days from the date their answer is due, Defendant 3 shall file a motion for summary judgment or other dispositive motion. The motion must be 4 supported by adequate factual documentation, must conform in all respects to Federal Rule of 5 Civil Procedure 56, and must include as exhibits all records and incident reports stemming from 6 the events at issue. A motion for summary judgment also must be accompanied by a Rand2 notice 7 so that Plaintiff will have fair, timely and adequate notice of what is required of him in order to 8 oppose the motion. Woods v. Carey, 684 F.3d 934, 935 (9th Cir. 2012) (notice requirement set out 9 in Rand must be served concurrently with motion for summary judgment). A motion to dismiss 10 for failure to exhaust available administrative remedies must be accompanied by a similar notice. 11 However,

the court notes that under the new law of the circuit, in the rare event that a failure to exhaust is clear on the face of the amended complaint, Defendant may move for dismissal under Rule 12(b)(6) as opposed to the previous practice of moving under an unenumerated Rule 12(b)

motion. *Albino v. Baca*, 747 F.3d 1162, 1166 (9th Cir. 2014) (en banc) (overruling *Wyatt v. Terhune*, 315 F.3d 1108, 1119 (9th Cir. 2003), which held that failure to exhaust available administrative remedies under the Prison Litigation Reform Act should be raised by a defendant as an unenumerated Rule 12(b) motion). Otherwise if a failure to exhaust is not clear on the face of the amended complaint, Defendant must produce evidence proving failure to exhaust in a motion for summary judgment under Rule 56. *Id.* If undisputed evidence viewed in the light most favorable to Plaintiff shows a failure to exhaust, Defendant is entitled to summary judgment under

Rule 56. *Id.* But if material facts are disputed, summary judgment should be denied and the district judge rather than a jury should determine the facts in a preliminary proceeding. *Id.* at 1168. If Defendant is of the opinion that this case cannot be resolved by summary judgment, they shall so inform the court prior to the date the summary judgment motion is due. All papers filed with the court shall be promptly served on Plaintiff. 1 b. Plaintiff's opposition to the dispositive motion shall be filed with the court and served on Defendant no later than twenty-eight (28) days after the date on which Defendant's motion is filed. 4 c. Plaintiff is advised that a motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure will, if granted, end your case. Rule 56 tells you what you must do in order to oppose a motion for summary judgment. Generally, summary judgment must be granted when there is no genuine issue of material fact—that is, if there is no real dispute about any fact that would affect the result of your case, the party who asked for summary judgment is entitled to judgment as a matter of law, which will end your case. When a party you are suing makes a motion for summary judgment that is properly supported by declarations (or other sworn testimony), you cannot simply rely on what your complaint says. Instead, you must set out specific facts in declarations, depositions, answers to interrogatories, or authenticated documents, as provided in Rule 56(e), that contradicts the facts shown in the defendant's declarations and documents and show that there is a genuine issue of material fact for trial. If you do not submit your own evidence in opposition, summary judgment, if appropriate, may be entered against you. If summary judgment is granted, your case will be dismissed and there will be no trial. *Rand*, 154 F.3d at 962-63. Plaintiff also is advised that—in the rare event that Defendant argues that the failure to exhaust is clear on the face of the amended complaint—a motion to dismiss for failure to exhaust available administrative remedies under 42 U.S.C. § 1997e(a) will, if granted, end your case, albeit without prejudice. To avoid dismissal, you have the right to present any evidence to show that you did exhaust your available administrative remedies before coming to federal court. Such evidence may include: (1) declarations, which are

statements signed under penalty of perjury by 24 you or others who have personal knowledge of relevant matters; (2) authenticated documents— 25 documents accompanied by a declaration showing where they came from and why they are 26 authentic, or other sworn papers such as answers to interrogatories or depositions; (3) statements 27 in your complaint insofar as they were made under penalty of perjury and they show that you have 1 dismiss for failure to exhaust under Rule 12(b)(6) or failure to exhaust in a summary judgment 2 motion under Rule 56, the district judge may hold a preliminary proceeding and decide disputed 3 issues of fact with regard to this portion of the case. Albino, 747 F.3d at 1168. 4 (The notices above do not excuse Defendant's obligation to serve similar notices again 5 concurrently with motions to dismiss for failure to exhaust available administrative remedies and 6 motions for summary judgment. Woods, 684 F.3d at 935.) 7 d. Defendant shall file a reply brief no later than fourteen (14) days after the 8 date Plaintiff's opposition is filed. 9 e. The motion shall be deemed submitted as of the date the reply brief is due. 10 No hearing will be held on the motion unless the court so orders at a later date. 11 5. Discovery may be taken in this action in accordance with the Federal Rules of Civil 12 Procedure. Leave of the court pursuant to Rule 30(a)(2) is hereby granted to Defendant to depose 13 Plaintiff and any other necessary witnesses confined in prison. 14 6. All communications by Plaintiff with the court must be served on Defendant or 15 their counsel, once counsel has been designated, by mailing a true copy of the document to them. 16 7. It is Plaintiff's responsibility to prosecute this case. Plaintiff must keep the court 17 informed of any change of address and must comply with the court's orders in a timely fashion. 18 Pursuant to Northern District Local Rule 3-11 a party proceeding pro se whose address changes 19 while an action is pending must promptly file a notice of change of address specifying the new 20 address. See L.R. 3-11(a). The court may dismiss without prejudice a complaint when: (1) mail 21 directed to the pro se party by the court has been returned to the court as not deliverable, and 22 (2) the court fails to receive within sixty days of this return a written communication from the pro 23 se party indicating a current address. See L.R. 3-11(b). 24 8. Upon a showing of good cause, requests for a reasonable extension of time will be 25 granted provided they are filed on or before the deadline they seek to extend. 26 IT IS SO ORDERED. 27 Dated: October 3, 2025 _____
DONNA M. RYU