

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Christopher Hawkins v. Derrick Williams, San Diego County, San
Diego County Sheriff's Department, San Diego County Jail, and Does
1-10

Hawkins · No. 25cv3183-AJB (BLM) · Decided December 18, 2025

SUMMARY

The United States District Court for the Southern District of California grants Christopher Hawkins leave to proceed in forma pauperis. The court dismisses his 42 U.S.C. § 1983 complaint for failure to comply with Federal Rule of Civil Procedure 8(a) and failure to state a claim under 28 U.S.C. §§ 1915(e)(2) and 1915A(b). The dismissal is without prejudice, and Hawkins is granted 45 days to file an amended complaint.

CASE DETAILS

COURT	United States District Court for the Southern District of California
JURISDICTION	United States District Court for the Southern District of California
DECIDED	December 18, 2025
DOCKET	25cv3183-AJB (BLM)
DISPOSITION	other
PROCEDURAL POSTURE	A prisoner proceeding pro se filed a 42 U.S.C. § 1983 complaint and moved to proceed in forma pauperis. The district court granted in forma pauperis status, screened the complaint under 28 U.S.C. §§ 1915(e)(2) and 1915A(b), dismissed the complaint sua sponte for failure to comply with Federal Rule of Civil Procedure 8(a) and failure to state a claim, and granted leave to amend.
STANDARD OF REVIEW	The court applied the screening standards under 28 U.S.C. §§ 1915(e)(2) and 1915A(b), using the Federal Rule of Civil Procedure 12(b)(6) plausibility standard. The court accepted well-pleaded factual allegations as true but required sufficient factual matter to state a plausible claim and individualized allegations connecting each defendant to the alleged deprivation.
PRECEDENTIAL VALUE	Unpublished district court order; generally nonprecedential.

PARTIES

Christopher Hawkins v. Derrick Williams, San Diego County, San Diego County Sheriff's Department, San Diego County Jail, Does 1-10

TOPICS

motions to dismiss pleadings section 1983 due process civil procedure

PRACTICE AREAS

civil rights prisoner litigation federal civil procedure

QUESTIONS PRESENTED

1. Whether Plaintiff qualified to proceed in forma pauperis under 28 U.S.C. § 1915(a) and whether he was required to pay the filing fee through installments.
2. Whether the complaint complied with Federal Rule of Civil Procedure 8(a).
3. Whether the complaint stated a plausible Fourteenth Amendment conditions-of-confinement claim.
4. Whether the complaint stated a plausible § 1983 municipal-liability claim against San Diego County.
5. Whether the San Diego County Sheriff's Department and San Diego County Jail were proper defendants under § 1983.
6. Whether the allegations concerning mail, press access, legal supplies, funds, and medical care stated a claim under § 1983.

HOLDINGS

1. Plaintiff qualified to proceed in forma pauperis because his certified trust-account statement showed no average monthly balance, no average monthly deposits, and no available balance. He was granted leave to proceed without paying a partial filing fee, but remained responsible for the statutory filing fee through installment payments.
2. The complaint failed to comply with Rule 8(a) because its allegations were conclusory, confusing, rambling, largely undated, and not connected to actions taken by specific defendants, depriving defendants of fair notice of the claims and their grounds.
3. The complaint failed to state a Fourteenth Amendment conditions-of-confinement claim because it did not plausibly connect any alleged unconstitutional condition or injury to a specific defendant.
4. The complaint failed to state a § 1983 municipal-liability claim against San Diego County because it did not identify a policy, custom, or practice adopted or maintained with deliberate indifference that was the moving force behind a constitutional violation.
5. The San Diego County Sheriff's Department and San Diego County Jail were not proper defendants under § 1983 because they are not persons subject to liability under the statute.
6. The allegations concerning interference with mail and legal supplies, access to counsel and family, press contact, and medical care failed to state a claim because they were conclusory, lacked adequate temporal and factual detail, and did not connect any alleged conduct to a particular defendant.

7. Because Plaintiff was proceeding pro se, the court granted 45 days of leave to amend unless it was absolutely clear that the pleading deficiencies could not be cured.

KEY QUOTATIONS

“The Court finds Plaintiff’s Complaint fails to provide Defendants with fair notice or a “plain statement of the claim showing Plaintiff is entitled to relief.”” (Order at 6)

“A district court should not dismiss a pro se complaint without leave to amend [pursuant to 28 U.S.C. § 1915(e)(2)] unless it is absolutely clear that the deficiencies of the complaint could not be cured by amendment.” (Order at 10)

“If Plaintiff fails to timely file an Amended Complaint, the Court will enter a final Order dismissing this civil action” (Order at 11)

FACTUAL BACKGROUND

Plaintiff was incarcerated at the San Diego Central Jail during the relevant events and alleged numerous conditions-of-confinement deficiencies, including lockdowns, restricted recreation and showers, inadequate meals and supplies, excessive lighting, and delayed medical care. He also alleged interference with mail, press contact, legal supplies, funds, and access to counsel and family. The complaint named individual and municipal defendants but did not connect specific factual allegations to particular defendants or identify a municipal policy, custom, or practice.

PROCEDURAL HISTORY

Plaintiff filed a civil-rights complaint concerning conditions at the San Diego Central Jail, mail and press access, access to funds and supplies, and medical care. He also filed an in forma pauperis motion supported by a trust-account statement showing no income or balance. The district court granted the motion, ordered collection of the statutory filing fee in installments, dismissed the complaint, and allowed 45 days to file an amended complaint.

DISPOSITION

other

CASES CITED

- Andrews v. Cervantes, 493 F.3d 1047, 1051 (9th Cir. 2007)
- Andrews v. King, 398 F.3d 1113, 1119 (9th Cir. 2005)
- Bruce v. Samuels, 577 U.S. 82, 84 (2016)
- 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)
- Wilhelm v. Rotman, 680 F.3d 1113, 1121 (9th Cir. 2012)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)

- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 570 (2007)
- Devereaux v. Abbey, 263 F.3d 1070, 1074 (9th Cir. 2001)
- Tsao v. Desert Palace, Inc., 698 F.3d 1128, 1138 (9th Cir. 2012)
- Arnold v. Hearst Mag. Media, Inc., No. 19-cv-01969-WQH-MDD, 2020 WL 3469367, at *8 (S.D. Cal. June 24, 2020)
- Nevijel v. North Coast Life Ins. Co., 651 F.2d 671, 674 (9th Cir. 1981)
- Bell v. Wolfish, 441 U.S. 520, 535 n.16 (1979)
- City of Revere v. Massachusetts General Hospital, 463 U.S. 239, 244 (1983)
- Gordon v. County of Orange, 888 F.3d 1118, 1125 (9th Cir. 2018)
- Leer v. Murphy, 844 F.2d 628, 633 (9th Cir. 1988)
- Dougherty v. City of Covina, 654 F.3d 892, 900-01 (9th Cir. 2011)
- Monell v. Department of Social Services, 436 U.S. 658, 694 (1978)
- Thomas v. County of Riverside, 763 F.3d 1167, 1170 (9th Cir. 2014)
- Gant v. County of Los Angeles, 772 F.3d 608, 618 (9th Cir. 2014)
- Anderson v. County of Kern, 45 F.3d 1310, 1312-13 (9th Cir. 1995)
- Johnson v. County of San Diego, No. 18-cv-01846-LAB-RBB, 2020 WL 5630503, at *3 (S.D. Cal. Oct. 30, 2018)
- Rosati v. Igbinoso, 791 F.3d 1037, 1039 (9th Cir. 2015)
- Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc., 896 F.2d 1542, 1546 (9th Cir. 1990)
- Lacey v. Maricopa County, 693 F.3d 896, 928 (9th Cir. 2012)
- Lira v. Herrera, 427 F.3d 1164, 1169 (9th Cir. 2005)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF
CALIFORNIA 10 11 CHRISTOPHER HAWKINS, Case No.: 25cv3183-AJB (BLM) CDCR
#CC-0532, 12 ORDER: Plaintiff, 13 vs. 1) GRANTING MOTION TO 14 PROCEED IN FORMA
PAUPERIS 15 AND DERRICK WILLIAMS, SAN DIEGO 16 COUNTY, SAN DIEGO
COUNTY 2) DISMISSING COMPLAINT FOR SHERIFF'S DEPARTMENT, SAN 17 FAILURE
TO COMPLY WITH Fed.

DIEGO COUNTY JAIL, and R. Civ. P. 8(a) AND FAILURE TO 18 DOES 1-10, STATE A
CLAIM PURSUANT TO 19 Defendants. 28 U.S.C. §§ 1915(e)(2) & 1915A(b) 20 21 Plaintiff
Christopher Hawkins, an inmate at the San Diego Central Jail at the time of 22 the relevant events,
is proceeding pro se in this civil action brought pursuant to 42 U.S.C. 23 § 1983. (Doc. No. 1.)
Plaintiff has also filed a Motion to Proceed In Forma Pauperis 24 ("IFP").

(Doc. No. 2.) 25 I. Motion to Proceed IFP 26 All parties instituting any civil action, suit or
proceeding in a district court of the 27 United States, except an application for writ of habeas
corpus, must pay a filing fee of 28 \$405, consisting of a \$350 statutory fee plus an additional

administrative fee of \$55, although the administrative fee does not apply to persons granted leave to proceed IFP.

See 28 U.S.C. § 1914(a) (Judicial Conference Schedule of Fees, District Court Misc. Fee Schedule, § 14 (eff. Dec. 1, 2023)). The action may proceed despite a plaintiff's failure to prepay the entire fee only if he is granted leave to proceed IFP pursuant to 28 U.S.C. § 1915(a). See *Andrews v. Cervantes*, 493 F.3d 1047, 1051 (9th Cir. 2007). A prisoner seeking leave to proceed IFP must submit a "certified copy of the trust fund account statement (or institutional equivalent) for... the 6-month period immediately preceding the filing of the complaint." 28 U.S.C. § 1915(a)(2); *Andrews v. King*, 398 F.3d 1113, 1119 (9th Cir.

2005). From the trust account statement, the Court assesses an initial payment of 20% of (a) the average monthly deposits in the account for the past six months, or (b) the average monthly balance in the account for the past six months, whichever is greater, unless the prisoner has insufficient assets. See 28 U.S.C. § 1915(b)(1)&(4); *Bruce v. Samuels*, 577 U.S. 82, 84 (2016).

Prisoners who proceed IFP must pay any remaining balance in "increments" or "installments," regardless of whether their action is ultimately dismissed. 28 U.S.C. § 1915(b)(1)&(2); *Bruce*, 577 U.S. at 84. In support of his IFP motion, Plaintiff has submitted a copy of his inmate trust account statement attested to by a trust account official. (Doc.

No. 2 at 4.) The document shows he had an average monthly balance of \$0.00 and average monthly deposits of \$0.00, with an available balance of \$0.00. (Id.) Plaintiff's IFP motion is GRANTED with no partial filing fee. Pursuant to 28 U.S.C. § 1915(b)(2), the agency having custody of Plaintiff will forward payments to the Clerk pursuant to the installment provisions of 28 U.S.C. § 1915(b)(1) & (2) until the \$350 statutory fee is paid in full.

II. SCREENING PURSUANT TO 28 U.S.C. § 1915(e)(2) A. Standard of Review Because Plaintiff is a prisoner proceeding IFP, his Complaint requires a pre-Answer screening pursuant to 28 U.S.C. §§ 1915(e)(2) & 1915A(b).

The Court must sua sponte dismiss a prisoner's IFP complaint, or any portion of it, which is frivolous, malicious, fails to state a claim, or seeks damages from defendants who are immune. *Lopez v. Smith*, 203 F.3d 1122, 1126–27 (9th Cir. 2000) (en banc) (28 U.S.C. § 1915(e)(2)); *Rhodes v. Robinson*, 621 F.3d 1002, 1004 (9th Cir. 2010) (28 U.S.C. § 1915A(b)). "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." *Watson v. Carter*, 668 F.3d 1108, 1112 (9th Cir.

2012); see also *Wilhelm v. Rotman*, 680 F.3d 1113, 1121 (9th Cir. 2012) (noting that § 1915A screening "incorporates the familiar standard applied in the context of failure to state a claim under Federal Rule of Civil Procedure 12(b)(6)."). Rule 12(b)(6) requires a complaint to

“contain sufficient factual matter, accepted as true, to ‘state a claim to relief 10 that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell 11 Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “Determining whether a complaint 12 states a plausible claim for relief [is]... a context-specific task that requires the reviewing 13 court to draw on its judicial experience and common sense.” *Id.* 14 Title 42 U.S.C. § 1983 “creates a private right of action against individuals who, 15 acting under color of state law, violate federal constitutional or statutory rights.” 16 *Devereaux v. Abbey*, 263 F.3d 1070, 1074 (9th Cir.

2001). “To establish § 1983 liability, a 17 plaintiff must show both (1) deprivation of a right secured by the Constitution and laws of 18 the United States, and (2) that the deprivation was committed by a person acting under 19 color of state law.” *Tsao v. Desert Palace, Inc.*, 698 F.3d 1128, 1138 (9th Cir. 2012). 20 B. Plaintiff’s Allegations 21 Plaintiff alleges that during his incarceration at the San Diego Central Jail, “trash 22 piled up in the cell for days at a time, meaningful recess was hindered & impaired 23 throughout trial through rights to information.” (Doc.

No. 1 at 3.) He alleges there were: 24 extreme conditions of constant lockdowns that exceeded 72 hours on a regular basis, not providing day room access in administrative segregation, no 25 recreation yard, corporal abuse and injury from authority and housing of other 26 problematic inmates made living conditions un-livable, housing program lights being on in the cells 18 hours a day with medicine times late at night 27 past 10 pm, t.v. left on past 12, not receiving hot meals during trial or lunch 28 in my cell upon return, shower temperature so hot it left severe burns to the 1 point it was in tolerable, no showers at all or day room during trial for 7 days or phone calls, constant interruptions from staff banging on the cell doors and 2 wardens with big metal keys demanding movement, 3 haircuts total in 7 3 months, not receiving indigent supplies or envelopes, paper and pencil which I had to chew with my teeth and sharpen on the cell floor, razor restrictions, 4 not receiving access to commissary for the entire duration of incarceration.

5 (Id.) 6 Plaintiff claims his First Amendment right to be free from governmental interference 7 with contact with the press based on the content of his speech was denied because he had 8 no means to be interviewed by the press and had access to only two newspapers in the day 9 room once every couple of days. (Id. at 4.) He alleges that on “July 29th, 2025 mail was 10 denied by process of institution to media outlet Los Angeles Times media publication that 11 predicted the out come of federal issues of choice of counsel to reach outside of the public 12 defenders office to retain issues of confinement.” (Id. at 5.)

This claim continues with 13 lengthy, confusing, rambling and disjointed statements which apparently indicate that his 14 personal and legal mail was not delivered, which may have had an impact on his ability to 15 litigate his criminal proceedings. (Id.) 16 Plaintiff next complains that the jail interfered with access to his money through his 17 trust account, which diminished his

“rights to effective relationship with counsel selection, 18 envelopes, stamps, soap, food, coffee, [unintelligible], or minimum amounts of weekly 19 indigent supplies, has funds unnecessary hardships to freedom of anything I need, I am 20 state funded completely and have less than every single person I’m in contact with 21 consistently and not being issued weekly commissary indigent supplies from the facility.” 22 (Id. at 6.)

He alleges those same hardships continued after his transfer from the Jail to the 23 state prison where he is currently housed, as well as “no visitors, no clothing, no canteen 24 items, no phone, very limited quantities of toilet paper, no privileges.” (Id.) 25 Finally, Plaintiff alleges that: “From the month of March I was denied medical care 26 from the facility from having my right ear completely clogged with an obstruction blocked 27 hearing completely as multiple medical care requests were filed with the facility reasonably 28 1 necessary medical care that was available went intentionally unscheduled by the facility 2 for over 4 months.” (Id. at 8.)

Although Plaintiff names in the caption of the Complaint 3 Defendants Derrick Williams, San Diego County, the San Diego County Sheriff’s 4 Department, the San Diego County Jail, and Does 1-10, only Defendant Williams, “a 5 custodial respondent for County Jail,” and Defendant San Diego County Sheriff’s 6 Department, the “superintendent in charge of custody and injury responsibility for 7 conditions of confinement under federal guidelines of law that inflicted corporal 8 punishment upon injury to person in the county jail limited to corporal injury,” are 9 identified in the Complaint.

(Id. at 2.) 10 C. Analysis 11 1. Federal Rule 8 12 Federal Rule of Civil Procedure 8(a) requires that a complaint provide “a short and 13 plain statement of the claim showing that the pleader is entitled to relief,” sufficient to 14 “give the defendant fair notice of what the... claim is and the grounds upon which it 15 rests.” Twombly, 550 U.S. at 555. A pleading that merely alleges “naked assertion(s) 16 devoid of further factual enhancement” does not satisfy Rule 8.

Iqbal, 556 U.S. at 678. 17 The factual allegations in Plaintiff’s Complaint are conclusory, unconnected with 18 any action taken by any Defendant, and almost entirely undated. Although some small 19 context is possible regarding the dates of medical care from the exhibits attached to the 20 Complaint, which include grievance forms submitted to jail authorities for a single month, 21 (see Doc.

No. 1-2 at 3–13), “[e]xhibits attached to a complaint are not a substitute for 22 factual allegations.” Arnold v. Hearst Mag. Media, Inc., No. 19-cv-01969-WQH-MDD, 23 2020 WL 3469367, at *8 (S.D. Cal. June 24, 2020); see also Nevijel v. North Coast Life 24 Ins. Co., 651 F.2d 671, 674 (9th Cir. 1981) (holding that verbose and confusing complaint 25 with addenda and exhibits was properly dismissed under Rule 8).

26 The Court finds Plaintiff's Complaint fails to provide Defendants with fair notice or 27 a "plain statement of the claim showing Plaintiff is entitled to relief." Fed. R. Civ. P. 8(a); 28 *Twombly*, 550 U.S. at 555.

Therefore, the Court DISMISSES the Complaint in its entirety 1 for failure to comply with Rule 8. See *Long v. JP Morgan Chase Bank, Nat. Ass'n*, 848 F. 2d Supp. 2d 1166, 1173 (D. Haw. 2012) ("The court may... sua sponte dismiss a complaint 3 for failure to comply with Federal Rule of Civil Procedure ('Rule') 8.") 4 2. Failure to state a claim 5 In addition, the allegations in the Complaint fail to state a claim upon which relief 6 may be granted.

Because Plaintiff appears to indicate he was a pretrial detainee at the time 7 of the events at issue, the Court will construe his conditions of confinement claim as arising 8 under the Due Process Clause of the Fourteenth Amendment rather than under the Eighth 9 Amendment. See *Bell v. Wolfish*, 441 U.S. 520, 535 n.16 (1979) ("Due process requires 10 that a pretrial detainee not be punished.

A sentenced inmate, on the other hand, may be 11 punished, although that punishment may not be "cruel and unusual" under the Eighth 12 Amendment."); see also *City of Revere v. Massachusetts Gen. Hospital*, 463 U.S. 239, 244 13 (1983) (holding that "due process rights" of a person who has not been convicted "are at 14 least as great as the Eighth Amendment protections available to a convicted prisoner.") 15 To state a claim for unconstitutional conditions of confinement under the Fourteenth 16 Amendment, a pre-trial detainee must plausibly allege: "(i) the defendant made an 17 intentional decision with respect to the conditions under which the plaintiff was confined; 18 (ii) those conditions put the plaintiff at substantial risk of suffering serious harm; (iii) the 19 defendant did not take reasonable available measures to abate that risk, even though a 20 reasonable official in the circumstances would have appreciated the high degree of risk 21 involved – making the consequences of the defendant's conduct obvious; and (iv) by not 22 taking such measures, the defendant caused plaintiff's injuries." *Gordon v. County of 23 Orange*, 888 F.3d 1118, 1125 (9th Cir.

2018). Plaintiff fails to state such a claim because 24 he fails to connect any alleged action to any Defendant. See *Leer v. Murphy*, 844 F.2d 628, 25 633 (9th Cir. 1988) ("The inquiry into causation must be individualized and focus on the 26 duties and responsibilities of each individual defendant whose acts or omissions are alleged 27 to have caused a constitutional deprivation.").

28 In addition, in order to state a claim for municipal liability against the County of San 1 Diego, Plaintiff must allege that: (1) he was deprived of a constitutional right, (2) the 2 County has a policy, custom or practice which amounted to deliberate indifference to that 3 constitutional right; and (3) the policy, custom or practice was the moving force behind the 4 constitutional violation.

Dougherty v. City of Covina, 654 F.3d 892, 900–01 (9th Cir. 2011) 5 (citing Monell v. Dep’t of Social Servs., 436 U.S. 658, 694 (1978)) (“We conclude, 6 therefore, that a local government may not be sued under § 1983 for an injury inflicted 7 solely by its employees or agents. Instead, it is when execution of a government’s policy 8 or custom, whether made by its lawmakers or by those whose edicts or acts may fairly be 9 said to represent official policy, inflicts the injury that the government as an entity is 10 responsible under § 1983.”).

Municipal liability may be shown when an employee who 11 committed the constitutional violation was “acting pursuant to an expressly adopted official 12 policy, longstanding practice or custom, or as a final policymaker.” Thomas v. County of 13 Riverside, 763 F.3d 1167, 1170 (9th Cir. 2014) (citing Monell, 436 U.S. at 694). 14 Plaintiff has not identified in the body of the Complaint a custom, policy, or practice 15 allegedly adhered to with deliberate indifference to his constitutional rights.

His allegations 16 regarding the conditions at the Jail, in addition to being conclusory and lacking detail 17 regarding when they happened, fail to plausibly allege municipal liability because “proof 18 of a single incident of unconstitutional activity,” or even a series of “isolated or sporadic 19 incidents” generally will not give rise to § 1983 municipal liability.

Gant v. County of Los 20 Angeles, 772 F.3d 608, 618 (9th Cir. 2014); see also Anderson v. County of Kern, 45 F.3d 21 1310, 1312-13 (9th Cir. 1995) (holding that short term or temporary deprivations of basic 22 needs such as food, clothing, shelter and sanitation do not plausibly allege a constitutional 23 violation). 24 Plaintiff cannot state a § 1983 claim against the San Diego Sheriff’s Department or 25 the San Diego County Jail because they are not “persons” within the meaning of § 1983.

26 See Tsao, 698 F.3d at 1138 (“To establish § 1983 liability, a plaintiff must show both 27 (1) deprivation of a right secured by the Constitution and laws of the United States, and 28 (2) that the deprivation was committed by a person acting under color of state law.”); 1 Johnson v. County of San Diego, No. 18-cv-01846-LAB-RBB, 2020 WL 5630503, at *3 2 (S.D.

Cal. Oct. 30, 2018) (“Local law enforcement departments, like the San Diego 3 Sheriff’s Department, municipal agencies, or subdivisions of that department or agency, 4 are not proper defendants under § 1983.”) 5 Finally, Plaintiff alleges the interference with his mail and legal supplies adversely 6 affected his ability to litigate his criminal case by interfering with his ability to select 7 counsel and communicate with his family and the media.

This claim suffers from the same 8 defects as his due process claim: there are no factual allegations connecting any Defendant 9 with any alleged action, and the allegations are entirely conclusory and unconnected to any 10 temporal event. Leer, 844 F.2d at 633 (“The inquiry into causation must be individualized 11 and focus on the duties and responsibilities of each individual

defendant whose acts or 12 omissions are alleged to have caused a constitutional deprivation.”); Iqbal, 556 U.S. at 678 13 (the “mere possibility of misconduct” falls short of meeting the plausibility standard).

14 Plaintiff’s Complaint is dismissed sua sponte pursuant to 28 U.S.C. §§ 1915(e)(2) 15 & 1915A(b) for failure to state a claim. 16 D. Leave to Amend 17 Because Plaintiff is proceeding pro se, the Court will grant him an opportunity to 18 amend his complaint. See *Rosati v. Igbino*, 791 F.3d 1037, 1039 (9th Cir. 2015) (“A 19 district court should not dismiss a pro se complaint without leave to amend [pursuant to 28 20 U.S.C. § 1915(e)(2)] unless it is absolutely clear that the deficiencies of the complaint 21 could not be cured by amendment.”) (internal quote marks omitted).

22 III. Conclusion and Orders 23 For the reasons explained, the Court: 24 1. GRANTS Plaintiff’s Motion to Proceed IFP (Doc. No. 2); 25 2. DIRECTS the Secretary of the California Department of Corrections and 26 Rehabilitation, or his designee, to collect from Plaintiff’s prison trust account the \$350 27 filing fee owed in this case by collecting monthly payments from the account in an amount 28 equal to twenty percent (20%) of the preceding month’s income and forward payments to I Clerk of the Court each time the amount in the account exceeds \$10 in accordance with 2 }28 U.S.C. § 1915(b)(2).

3 3. DIRECTS the Clerk of the Court to serve a copy of this Order by U.S. Mail 4 ||on Jeff Macomber, Secretary, California Department of Corrections and Rehabilitation, 5 Box 942883, Sacramento, California, 94283-0001. 6 4. DISMISSES Plaintiffs Complaint for failing to comply with Federal Rule of 7 || Civil Procedure 8(a) and for failing to state a claim upon which relief may be granted 8 || pursuant to 28 U.S.C. §§ 1915(e)(2)(B)Gi & 1915A(b)(1), and GRANTS Plaintiff forty- 9 || five (45) days leave from the date of this Order in which to file an Amended Complaint 10 || which cures all the deficiencies of pleading noted.

Plaintiff’s Amended Complaint must be 11 }complete by itself without reference to his original pleading. Defendants not named and 12 || any claim not re-alleged in the Amended Complaint will be considered waived. See S.D. 13 || CAL. CIVLR 15.1; *Hal Roach Studios, Inc. v. Richard Feiner and Co., Inc.*, 896 F.2d 1542, 14 1/1546 (9th Cir. 1989) (“[A]n amended pleading supersedes the original.”); *Lacey v.* 15 || *Maricopa Cnty.*, 693 F.3d 896, 928 (9th Cir.

2012) (noting that claims dismissed with leave 16 amend which are not re-alleged in an amended pleading may be “considered waived if 17 || not repled.”) 18 If Plaintiff fails to timely file an Amended Complaint, the Court will enter a final 19 ||Order dismissing this civil action based both on Plaintiff’s failure to state a claim upon 20 || which relief can be granted pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(4i) & 1915A(b)(1), and 21 failure to prosecute in compliance with a court order requiring amendment.

See *Lira v. 22 || Herrera*, 427 F.3d 1164, 1169 (9th Cir. 2005) (“If a plaintiff does not take advantage of 23 ||the opportunity to fix his complaint, a district court may convert the dismissal of the 24 ||}complaint into dismissal of the entire action.”). 25 IT IS SO ORDERED. 26 || Dated: December 18, 2025, 28 United States District Judge

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