

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
CALIFORNIA

**Christian Lopez v. CDCR**

Lopez v. CDCR · No. 1:24-cv-00734-BAM (PC) · Decided December 5, 2025

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OPINION

CDCR

PER CURIAM.

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3 UNITED STATES DISTRICT COURT

4 EASTERN DISTRICT OF CALIFORNIA

5 6 CHRISTIAN LOPEZ, Case No. 1:24-cv-00734-BAM (PC) 7 Plaintiff, ORDER DIRECTING  
CLERK OF COURT TO

RANDOMLY ASSIGN DISTRICT JUDGE TO

8 v. ACTION

9 CDCR, FINDINGS AND RECOMMENDATIONS TO

DISMISS ACTION, WITH PREJUDICE, FOR

10 Defendant. FAILURE TO STATE A CLAIM, FAILURE

TO OBEY COURT ORDER, AND FAILURE

11 TO PROSECUTE

12 (ECF No. 9)

13 FOURTEEN (14) DAY DEADLINE

14 15 I. Background 16 Plaintiff Christian Lopez (“Plaintiff”) is a state prisoner proceeding pro se  
and in forma 17 pauperis in this civil rights action under 42 U.S.C. § 1983. 18 On October 23,  
2025, the Court screened the complaint and found that it failed to state a 19 cognizable claim  
under 42 U.S.C. § 1983. (ECF No. 9.) The Court issued an order granting 20 Plaintiff leave to file  
a first amended complaint or a notice of voluntary dismissal within thirty 21 (30) days. (Id.) The  
Court expressly warned Plaintiff that the failure to comply with the Court’s 22 order would result  
in a recommendation for dismissal of this action, with prejudice, for failure to 23 obey a court  
order and for failure to state a claim. (Id.) Plaintiff failed to file an amended 24 complaint or  
otherwise communicate with the Court, and the deadline to do so has expired. 25 II. Failure to  
State a Claim 26 A. Screening Requirement 27 The Court is required to screen complaints brought  
by prisoners seeking relief against a 28 governmental entity and/or against an officer or employee  
of a governmental entity. 28 U.S.C. 1 § 1915A(a). Plaintiff’s complaint, or any portion thereof, is  
subject to dismissal if it is frivolous 2 or malicious, if it fails to state a claim upon which relief  
may be granted, or if it seeks monetary 3 relief from a defendant who is immune from such relief.

28 U.S.C. §§ 1915A(b). 4 A complaint must contain “a short and plain statement of the claim showing that the 5 pleader is entitled to relief . . . .” Fed. R. Civ. P. 8(a)(2). Detailed factual allegations are not 6 required, but “[t]hreadbare recitals of the elements of a cause of action, supported by mere 7 conclusory statements, do not suffice.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Bell 8 Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). While a plaintiff’s allegations are taken as 9 true, courts “are not required to indulge unwarranted inferences.” *Doe I v. Wal-Mart Stores, Inc.*, 10 572 F.3d 677, 681 (9th Cir. 2009) (internal quotation marks and citation omitted). 11 To survive screening, Plaintiff’s claims must be facially plausible, which requires 12 sufficient factual detail to allow the Court to reasonably infer that each named defendant is liable 13 for the misconduct alleged. *Iqbal*, 556 U.S. at 678 (quotation marks omitted); *Moss v. U.S. Secret 14 Serv.*, 572 F.3d 962, 969 (9th Cir. 2009). The sheer possibility that a defendant acted unlawfully 15 is not sufficient, and mere consistency with liability falls short of satisfying the plausibility 16 standard. *Iqbal*, 556 U.S. at 678 (quotation marks omitted); *Moss*, 572 F.3d at 969. 17 B. Plaintiff’s Allegations 18 Plaintiff is currently housed in California Substance Abuse Treatment Facility (“SATF”) 19 in Corcoran, California where the events in the complaint are alleged to have occurred. Plaintiff 20 names as defendants (1) CDCR [California Department of Corrections and Rehabilitation], 21 (2) Does 1-10. 22 Plaintiff alleges a Fourteenth Amendment “Badge of Authority” violation. Plaintiff 23 alleges Does 1-10 are employees that worked at SATF as correctional officers. The incident 24 occurred on August 10, 2022. On August 10, 2022 at approximately 12:33 p.m. Defendant texted 25 Plaintiff ‘s girlfriend Nicol Rangel by name asking her if it was her. Plaintiff incorporates 26 grievance log 301220 into the complaint. (Exh. A.)1 Defendants improperly accessed and 27 1 The Court has reviewed Exhibit A but does not summarize Plaintiff’s grievance. “The Court 28 will not comb through attached exhibits seeking to determine whether a claim possibly could 1 released confidential information. Plaintiff’s right of privacy was violated. Defendants were 2 authorized by CDCR and expected as part of their official duties to access inmates’ 3 computer/database. Defendants released Plaintiff’s information from his GTL Tablet, his 4 relationship with his girlfriend Nicol Rangel. Defendants improperly accessed and released 5 confidential information. 6 As remedies, Plaintiff seeks compensatory and punitive damages. 7 C. Discussion 8 Plaintiff’s complaint fails to state a cognizable claim under 42 U.S.C. § 1983. 9 Federal Rule of Civil Procedure 8 10 Pursuant to Federal Rule of Civil Procedure 8, a complaint must contain “a short and plain 11 statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a). 12 Detailed factual allegations are not required, but “[t]hreadbare recitals of the elements of a cause 13 of action, supported by mere conclusory statements, do not suffice.” *Iqbal*, 556 U.S. at 678 14 (citation omitted). Plaintiff must set forth “sufficient factual matter, accepted as true, to ‘state a 15 claim to relief that is plausible on its face.’” *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. 16 at 555). While factual allegations are accepted as true, legal conclusions are not. *Id.*; see also 17 *Twombly*, 550 U.S. at 556–57; *Moss*, 572 F.3d at 969. 18 Plaintiff’s complaint is relatively short, but it is not

a plain statement of his claims. 19 Eleventh Amendment 20 “The Eleventh Amendment grants a State immunity from suit in federal court by citizens 21 of other States, and by its own citizens as well.” *Lapides v. Bd. Of Regents*, 535 U.S. 613, 616 22 (2002). (citation omitted); see *Wolfson v. Brammer*, 616 F.3d 1045, 1065–66 (9th Cir. 2010) 23 (citation and quotation marks omitted). While “[t]he Eleventh Amendment does not bar suits 24 against a state official for prospective relief,” *Wolfson*, 616 F.3d at 1065–66, suits against the 25 state or its agencies are barred absolutely, regardless of the form of relief sought, e.g., *Pennhurst* 26 27 have been stated where the pleading itself does not state a claim. In short, [Plaintiff] must state a claim, not merely attach exhibits.” *Stewart v. Nevada*, No. 2:09-CV-01063-PMP-GWF, 2011 28 WL 588485, at \*2 (D. Nev. Feb. 9, 2011). 1 *State School & Hosp. v. Halderman*, 465 U.S. 89, 100 (1984); *Buckwalter v. Nevada Bd. Of 2 Medical Examiners*, 678 F.3d 737, 740 n. 1 (9th Cir. 2012). 3 A state agency is entitled to the same Eleventh Amendment immunity enjoyed by the 4 State when a judgment against the agency “would have had essentially the same practical 5 consequences as a judgment against the State itself.” *Lake Country Estates, Inc. v. Tahoe 6 Regional Planning Agency*, 440 U.S. 391, 401 (1979). Accordingly, because California 7 Department of Corrections and Rehabilitation is a state agency, it is entitled to Eleventh 8 Amendment immunity from suit. 9 Due Process - Privacy 10 Imprisonment carries with it the loss of many significant rights, and some loss of privacy 11 is inherent in confinement. *Seaton v. Mayberg*, 610 F.3d 530, 534 (9th Cir. 2010). The Due 12 Process Clause of the Fourteenth Amendment protects individuals against the disclosure of 13 personal matters, *Whalen v. Roe*, 429 U.S. 589, 598–99 (1977). “[T]he right to informational 14 privacy applies both when an individual chooses not to disclose highly sensitive information to 15 the government and when an individual seeks assurance that such information will not be made 16 public.” *Planned Parenthood of Southern Arizona v. Lawall*, 307 F.3d 783, 789–90 (9th Cir. 17 2002) (citations omitted). The Ninth Circuit suggested in *Seaton*, that “the right to informational 18 privacy is a narrow one, limited only to fundamental rights such ‘as matters relating to marriage, 19 procreation, contraception, family relationships, and child rearing and education.’” *Huling v. City 20 of Los Banos*, 869 F.Supp.2d 1139, 1153 (E.D. Cal. 2012) (quoting *Seaton*, 610 F.3d at 1153). 21 Plaintiff fails to state a claim. Privacy encompasses “interests in precluding the 22 dissemination or misuse of sensitive and confidential information (‘informational privacy’); and 23 (2) interests in making intimate personal decisions or conducting personal activities without 24 observation, intrusion, or interference (‘autonomy privacy’).” See generally, *Allen v. Clendenin*, 25 No. :123-CV-00921 EPG PC, 2023 WL 6213634, at \*8 (E.D. Cal. Sept. 25, 2023), report and 26 recommendation adopted, No. 1:23-CV-00921 JLT EPG PC, 2023 WL 7027074 (E.D. Cal. Oct. 27 25, 2023) (citing California Constitution and stating that “California’s Due Process Clause is 28 ‘identical in scope with the federal due process clause.’”) Plaintiff’s claim is not encompassed in 1 either informational privacy or autonomy privacy. The girlfriend’s information is not the type of 2 highly sensitive information typically protected. Plaintiff’s rights as to the girlfriend’s 3 information are not protected. Indeed, Plaintiff’s personal

information was not disclosed by any 4 defendant or any other party. Plaintiff alleges that Defendants were authorized by CDCR and 5 expected as part of their official duties to access inmates' computer/database. The complaint does 6 not contain sufficient information for the Court to determine whether Plaintiff's Fourteenth 7 Amendment right to privacy was denied by any Defendant in this action. 8 Doe Defendants 9 Plaintiff names several doe defendants. If Plaintiff wishes to name these officers as 10 defendants, and does not yet know their names, he may name them as John Doe 1, John Doe 2, 11 and so forth. Plaintiff must allege factual support for what each John Doe did which violated 12 Plaintiff's rights. 13 "As a general rule, the use of 'John Doe' to identify a defendant is not favored." 14 *Gillespie v. Civiletti*, 629 F.2d 637, 642 (9th Cir. 1980). Plaintiff is advised that John Doe or Jane 15 Doe defendants (i.e., unknown defendants) cannot be served by the United States Marshal until 16 Plaintiff has identified them as actual individuals and amended his complaint to substitute names 17 for John Doe or Jane Doe. 18 III. Failure to Prosecute and Failure to Obey a Court Order 19 A. Legal Standard 20 Local Rule 110 provides that "[f]ailure . . . of a party to comply with these Rules or with 21 any order of the Court may be grounds for imposition by the Court of any and all sanctions . . . 22 within the inherent power of the Court." District courts have the inherent power to control their 23 dockets and "[i]n the exercise of that power they may impose sanctions including, where 24 appropriate, . . . dismissal." *Thompson v. Hous. Auth.*, 782 F.2d 829, 831 (9th Cir. 1986). A 25 court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, 26 failure to obey a court order, or failure to comply with local rules. See, e.g., *Ghazali v. Moran*, 46 27 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 28 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring 1 amendment of complaint); *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130–33 (9th Cir. 1987) 2 (dismissal for failure to comply with court order). 3 In determining whether to dismiss an action, the Court must consider several factors: 4 (1) the public's interest in expeditious resolution of litigation; (2) the Court's need to manage its 5 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of 6 cases on their merits; and (5) the availability of less drastic sanctions. *Henderson v. Duncan*, 779 7 F.2d 1421, 1423 (9th Cir. 1986); *Carey v. King*, 856 F.2d 1439, 1440 (9th Cir. 1988). 8 B. Discussion 9 Here, Plaintiff's first amended complaint is overdue, and he has failed to comply with the 10 Court's order. The Court cannot effectively manage its docket if Plaintiff ceases litigating his 11 case. Thus, the Court finds that both the first and second factors weigh in favor of dismissal. 12 The third factor, risk of prejudice to defendant, also weighs in favor of dismissal, since a 13 presumption of injury arises from the occurrence of unreasonable delay in prosecuting an action. 14 *Anderson v. Air W.*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor usually weighs against 15 dismissal because public policy favors disposition on the merits. *Pagtalunan v. Galaza*, 291 F.3d 16 639, 643 (9th Cir. 2002). However, "this factor lends little support to a party whose 17 responsibility it is to move a case toward disposition on the merits but whose conduct impedes 18 progress in that direction," which is the

case here. In re Phenylpropanolamine (PPA) Products 19 Liability Litigation, 460 F.3d 1217, 1228 (9th Cir. 2006) (citation omitted). 20 Finally, the Court’s warning to a party that failure to obey the court’s order will result in 21 dismissal satisfies the “considerations of the alternatives” requirement. Ferdik, 963 F.2d at 1262; 22 Malone, 833 at 132–33; Henderson, 779 F.2d at 1424. The Court’s October 23, 2025 screening 23 order expressly warned Plaintiff that his failure to file an amended complaint would result in a 24 recommendation of dismissal of this action, with prejudice, for failure to obey a court order and 25 for failure to state a claim. (ECF No. 9.) Thus, Plaintiff had adequate warning that dismissal 26 could result from his noncompliance. 27 Additionally, at this stage in the proceedings there is little available to the Court that 28 would constitute a satisfactory lesser sanction while protecting the Court from further 1 unnecessary expenditure of its scarce resources. As Plaintiff is proceeding in forma pauperis in 2 this action, it appears that monetary sanctions will be of little use and the preclusion of evidence 3 or witnesses is likely to have no effect given that Plaintiff has ceased litigating his case. 4 IV. Conclusion and Recommendation 5 Accordingly, the Court HEREBY ORDERS the Clerk of the Court to randomly assign a 6 District Judge to this action. 7 Furthermore, the Court finds that dismissal is the appropriate sanction and HEREBY 8 RECOMMENDS that this action be dismissed, with prejudice, for failure to state a claim 9 pursuant to 28 U.S.C. § 1915A, for failure to obey a court order, and for Plaintiff’s failure to 10 prosecute this action. 11 These Findings and Recommendation will be submitted to the United States District Judge 12 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within fourteen 13 (14) days after being served with these Findings and Recommendation, the parties may file 14 written objections with the Court. The document should be captioned “Objections to Magistrate 15 Judge’s Findings and Recommendation.” Objections, if any, shall not exceed fifteen (15) pages 16 or include exhibits. Exhibits may be referenced by document and page number if already in 17 the record before the Court. Any pages filed in excess of the 15-page limit may not be 18 considered. The parties are advised that failure to file objections within the specified time may 19 result in the waiver of the “right to challenge the magistrate’s factual findings” on 20 appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838–39 (9th Cir. 2014) (citing Baxter v. Sullivan, 21 923 F.2d 1391, 1394 (9th Cir. 1991)). 22 IT IS SO ORDERED. 23 24 Dated: December 5, 2025 /s/ Barbara A. McAuliffe \_  
UNITED STATES MAGISTRATE JUDGE  
25 26 27 28