

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

Robert J. Alexander-Campos, III v. Bruce, et al.

Alexander-Campos · No. 1:22-cv-00958-JLT-CDB (PC) · Decided June 20, 2025

OPINION

(PC) Alexander-Campos v. Bruce

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10

11 ROBERT J. ALEXANDER-CAMPOS, III, Case No. 1:22-cv-00958-JLT-CDB (PC)

12 Plaintiff, FINDINGS AND RECOMMENDATIONS TO

DISMISS COMPLAINT FOR FAILURE TO

13 v. STATE A CLAIM UPON WHICH RELIEF

MAY BE GRANTED

14 BRUCE, et al., (Docs. 19, 25) 15 Defendants.

16 14-DAY DEADLINE

17 I. BACKGROUND

18 Plaintiff Robert J. Alexander-Campos is a state prisoner proceeding pro se and in forma 19
pauperis in this civil rights action brought under 42 U.S.C. § 1983. 20 On June 6, 2022, Plaintiff
initiated this action in the United States District Court for the 21 Northern District of California.
(Doc. 1.) The District Court screened the complaint and 22 dismissed the complaint with leave to
amend. (Doc. 6 at 2.) The court advised: “Because an 23 amended complaint completely replaces
the original complaint, plaintiff must include in it all the 24 claims he wishes to present. . . . He
may not incorporate material from the original complaint by 25 reference.” (Id. at 2–3) (citing
Ferdik v. Bonzelet, 963 F.2d 1258, 1262 (9th Cir. 1992)). 26 On July 28, 2022, Plaintiff filed a
first amended complaint asserting the use of excessive 27 force when he was a prisoner at Pleasant
Valley State Prison (“PVSP”). (Doc. 7.) Because venue for that claim lies in the Eastern District of
California, the presiding district judge in the Northern 1 District of California transferred the case
to this Court. (Doc. 9.) 2 On September 15, 2023, the Court screened the first amended complaint
and found it 3 failed to state a claim upon which relief can be granted. (Doc. 17.) Plaintiff was
afforded leave to 4 amend, and, on October 13, 2023, Plaintiff filed a second amended complaint.
(Doc. 19.) On

5 February 29, 2024, Plaintiff filed a form document from the Northern District of California

6 which he titled “Amended Civil Rights Complaint” (Doc. 22), docketed in this action by the 7 Clerk of the Court as “Third Amended Complaint.” However, although that document bears the 8 case number for this action, it does not appear to be an amended pleading and does not appear to 9 be related to this case. 10 Accordingly, on May 19, 2025, the Court screened Plaintiff’s second amended complaint 11 (Doc. 19) as the operative complaint and found it failed to state a claim upon which relief can be 12 granted. (Doc. 25.) Plaintiff was granted leave to amend his complaint to cure the identified 13 deficiencies to the extent he could in good faith and was afforded 21 days within which to file 14 any such amended complaint. The Court advised Plaintiff that if he wished to stand on his 15 complaint as screened, the undersigned would recommend dismissing the complaint for the 16 reasons set forth in the screening order. *Id.* at 8. 17 Because more than 21 days has passed and Plaintiff has not filed an amended complaint, 18 the undersigned presumes Plaintiff wishes to stand on his complaint as screened.

19 II. DISCUSSION

20 A. Plaintiff’s Allegations 21 The factual allegations of Plaintiff’s second amended complaint are similar to those in his 22 first amended complaint. Thus, once again, without stating the date of the incident, Plaintiff 23 alleges PVSP Correctional Officers (“CO”) Bruce and Perez (“Defendants”) used excessive force 24 when one or both of them placed Plaintiff in handcuffs near the podium in the dayroom, escorted 25 him away without incident, then body slammed him and threatened to deploy pepper spray 26 directly in his eyes while Plaintiff posed no potential threat to the officers. (Doc. 19 at 3.) This 27 1 The Court accepts Plaintiff’s allegations in the complaint as true only for the purpose of the sua 1 caused nerve damage to Plaintiff’s hand and wrist. Plaintiff asserts Defendants did this in 2 retaliation for filing a form 602 grievance and being a “MAC. Rep” for the D yard housing unit. 3 (*Id.* at 4.) Defendants were found guilty of using excessive force by investigative supervisors at 4 PVSP. (*Id.*) Plaintiff also asserts that Defendants’ conduct establishes an “equal protection” 5 violation to the extent Defendants discriminated against Plaintiff “for being a member of an 6 identifiable class; In this case Plaintiff being a MAC Representative.” 7 Plaintiff sues COs Bruce and Perez and the California Department of Corrections and 8 Rehabilitation (“CDCR”). He seeks damages for pain and suffering for loss of movement in the 9 fingers of his left hand due to nerve damage.

10 B. CDCR

11 As Plaintiff was advised in the Court’s first screening order (see Doc. 17 at 5), CDCR is 12 protected from liability under the doctrine of sovereign immunity. “The Eleventh Amendment 13 bars suits for money damages in federal court against a state, its agencies, and state officials 14 acting in their official capacities.” *Aholelei v. Dep’t of Public Safety*, 488 F.3d 1144, 1147 (9th 15 Cir. 2007). The Eleventh Amendment prohibits federal courts from hearing a section 1983 lawsuit

16 in which damages or injunctive relief is sought against a state, its agencies (such as CDCR) or 17 individual prisons, absent “a waiver by the state or a valid congressional override”

Dittman 18 v. California, 191 F.3d 1020, 1025 (9th Cir. 1999); see also *Fireman's Fund Ins. Co. v. City of 19 Lodi, Cal.*, 302 F.3d 928, 957 n.28 (9th Cir. 2002) ("The Eleventh Amendment bars suits which 20 seek either damages or injunctive relief against a state, 'an arm of the state,' its instrumentalities, 21 or its agencies."). The State of California has not waived its Eleventh Amendment immunity for 22 federal claims under section 1983. *Dittman*, 191 F.3d at 1025–26 (citing *Atascadero State Hosp. 23 v. Scanlon*, 473 U.S. 234, 241 (1985)); see *Brown v. Cal. Dep't. of Corrs.*, 554 F.3d 747, 752 (9th 24 Cir. 2009) (finding California Department of Corrections and California Board of Prison Terms 25 entitled to Eleventh Amendment immunity). 26 Therefore, CDCR may not be named as a defendant in this action. 27 C. Eighth Amendment Excessive Force Claim 1 causing injury and pain. The Eighth Amendment prohibits the infliction of "cruel and unusual 2 punishments." U.S. Const. amend. VIII. "It is undisputed that the treatment a prisoner receives in 3 prison and the conditions under which he is confined are subject to scrutiny under the Eighth 4 Amendment." *Helling v. McKinney*, 509 U.S. 25, 31 (1993). The "unnecessary and wanton 5 infliction of pain" on prisoners "constitutes cruel and unusual punishment." *Whitley v. Albers*, 6 475 U.S. 312, 319 (1986) (internal quotation marks and citation omitted). "Being violently 7 assaulted in prison is simply not part of the penalty that criminal offenders pay for their offenses 8 against society." *Farmer v. Brennan*, 511 U.S. 825, 834 (1994) (internal quotation marks and 9 citation omitted). 10 A correctional officer engages in excessive force in violation of the Eighth Amendment if 11 he (1) uses excessive and unnecessary force under all the circumstances, and (2) "harms an 12 inmate for the very purpose of causing harm," and not "as part of a good-faith effort to maintain 13 security." *Hoard v. Hartman*, 904 F.3d 780, 788 (9th Cir. 2018). Thus, "whenever prison officials 14 stand accused of using excessive physical force . . . the core judicial inquiry is . . . whether force 15 was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically 16 to cause harm." *Hudson v. McMillian*, 503 U.S. 1, 6–7 (1992). In making this determination, the 17 court may consider (1) the need for application of force, (2) the relationship between that need 18 and the amount of force used, (3) the threat reasonably perceived by the responsible officials, and 19 (4) any efforts made to temper the severity of a forceful response. *Id.* at 7. 20 Although Plaintiff has remedied some of the deficiencies in his earlier pleading of his 21 excessive force claim (by describing that the incident occurred shortly after he was escorted 22 away from the dayroom podium by Defendants and that he was body slammed without 23 provocation), he still has not identified when the event took place. Defendants cannot properly be 24 on notice of Plaintiff's claim without at least a general timeframe of when the events complained 25 of occurred. 26 D. Fourteenth Amendment Equal Protection Claim 27 Plaintiff alleges that Defendants' conduct establishes an "equal protection" violation to the 1 this case Plaintiff being a MAC Representative." Because the class to which Plaintiff claims 2 membership (the MAC) is not a "suspect class" -- stated otherwise, a class based on race, sex, or 3 national origin (see *Enquist v. Or. Dep't of Ag.*, 553 U.S. 591, 596 (2008)) -- it appears Plaintiff is 4

asserting an equal protection “class of one” violation. Where state action does not implicate a 5 fundamental right or a suspect classification, the plaintiff can establish an equal protection “class 6 of one” claim by demonstrating that the state actor (1) intentionally (2) treated him differently 7 than other similarly situated persons, (3) without a rational basis. *Gerhart v. Lake Cnty.*, 8 Montana, 637 F.3d 1013, 1022 (9th Cir. 2011) (citing *Village of Willowbrook v. Olech*, 528 U.S. 9 562, 564 (2000) (per curiam)). A class of one plaintiff must show that the discriminatory 10 treatment “was intentionally directed just at him, as opposed... to being an accident or a random 11 act.” *Jackson v. Burke*, 256 F.3d 93, 96 (2d Cir. 2001). 12 Liberally construing the second amended complaint, Plaintiff fails to allege an equal 13 protection violation against any named defendant. He does not assert facts demonstrating that any 14 individual intentionally treated him differently than other similarly situated persons in the absence 15 of a rational basis. *Gerhart*, 637 F.3d at 1022. Plaintiff merely alleges elements of the claim in 16 conclusory fashion and asserts a legal conclusion. Neither is sufficient to state a claim for relief. 17 *Iqbal*, 556 U.S. at 678.

18 III. CONCLUSION AND RECOMMENDATION

19 For the foregoing reasons, the undersigned finds that Plaintiff’s second amended 20 complaint fails to state a claim upon which relief can be granted. Because Plaintiff was granted 21 leave to amend his complaint on three prior occasions and has failed to cure the identified 22 deficiencies, the Court assesses that Plaintiff cannot cure his pleadings and, thus, that leave to 23 amend would be futile. See *Hartman v. CDCR*, 707 F.3d 1114, 1129-30 (9th Cir. 2013) 24 (affirming dismissal of first amended complaint and finding leave to amend futile where 25 complaint’s allegations belied plaintiff’s entitlement to relief). 26 Based upon the foregoing, the undersigned RECOMMENDS this action be DISMISSED 27 for Plaintiff’s failure to state a claim upon which relief may be granted. 1 | Judge assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days 2 | after being served with a copy of these Findings and Recommendations, a party may file written 3 | objections with the Court. Local Rule 304(b). The document should be captioned, “Objections to 4 | Magistrate Judge’s Findings and Recommendations” and shall not exceed 15 pages without leave 5 | of Court and good cause shown. The Court will not consider exhibits attached to the Objections. 6 | To the extent a party wishes to refer to any exhibit(s), the party should reference the exhibit in the 7 | record by its CM/ECF document and page number, when possible, or otherwise reference the 8 | exhibit with specificity. Any pages filed in excess of the 15-page limitation may be disregarded 9 | by the District Judge when reviewing these Findings and Recommendations under 28 U.S.C. § 10 | 636(b)(1)(C). A party’s failure to file any objections within the specified time may result in the 11 | waiver of certain rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014). 12 | IT IS SO ORDERED. Dated: _ June 20, 2025 | Wrb

14 UNITED STATES MAGISTRATE JUDGE

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