

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

Kameron L. Walker v. Jeff Lynch, et al.

Walker v. Lynch · No. 2:24-cv-02345 SCR P · Decided May 22, 2025

SUMMARY

The United States District Court for the Eastern District of California grants Kameron L. Walker's application to proceed in forma pauperis and screens his prisoner civil rights complaint under 28 U.S.C. § 1915A. The court finds a cognizable Eighth Amendment excessive force claim against Correctional Officers Cofer, Banish, and Jones, but not against Sergeant Elizarraras or Warden Lynch, and gives Walker the option to proceed on the cognizable claims or file an amended complaint.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 KAMARON L. WALKER, No. 2:24-cv-02345 SCR P 12 Plaintiff, 13 v.
ORDER 14 JEFF LYNCH, et al., 15 Defendants. 16 17 Plaintiff is a state inmate proceeding pro
se with a civil rights action under 42 U.S.C. § 18 1983.

Before the undersigned are plaintiff's complaint for screening (ECF No. 1) and application 19 to
proceed in forma pauperis (ECF No. 2). For the reasons set forth below, plaintiff's in forma 20
pauperis application is granted.

Moreover, the undersigned finds that plaintiff's complaint states 21 a cognizable Eighth
Amendment excessive force claim against defendants Cofer, Banish, and 22 Jones, but no other
cognizable claims. Plaintiff will be given the option of proceeding on his 23 cognizable claims or
filing an amended complaint. 24 REQUEST TO PROCEED IN FORMA PAUPERIS 25 Plaintiff
has requested leave to proceed without paying the full filing fee for this action, 26 under 28
U.S.C. § 1915.

(ECF No. 2.) Plaintiff has submitted a declaration showing that he 27 cannot afford to pay the
entire filing fee. See 28 U.S.C. § 1915(a)(2). Accordingly, plaintiff's 28 motion to proceed in
forma pauperis is granted. This means that plaintiff is allowed to pay the 1 \$350.00 filing fee in
monthly installments that are taken from the inmate's trust account rather 2 than in one lump sum.

28 U.S.C. §§ 1914(a). As part of this order, the prison is required to 3 remove an initial partial
filing fee from plaintiff's trust account. See 28 U.S.C. § 1915(b)(1). A 4 separate order directed to
CDCR requires monthly payments of twenty percent of the prior 5 month's income to be taken

from plaintiff's trust account. These payments will be taken until the 6 \$350 filing fee is paid in full.

See 28 U.S.C. § 1915(b)(2). 7 STATUTORY SCREENING OF PRISONER COMPLAINTS 8 The court is required to screen complaints brought by prisoners seeking relief against "a 9 governmental entity or officer or employee of a governmental entity." 28 U.S.C. § 1915A(a).

In 10 performing this screening function, the court must dismiss any claim that "(1) is frivolous, 11 malicious, or fails to state a claim upon which relief may be granted; or (2) seeks monetary relief 12 from a defendant who is immune from such relief." Id. § 1915A(b). A claim is legally frivolous 13 when it lacks an arguable basis either in law or in fact.

Neitzke v. Williams, 490 U.S. 319, 325 14 (1989). The court may dismiss a claim as frivolous if it is based on an indisputably meritless 15 legal theory or factual contentions that are baseless. *Neitzke*, 490 U.S. at 327.

The critical 16 inquiry is whether a constitutional claim, however inartfully pleaded, has an arguable legal and 17 factual basis. See *Jackson v. Arizona*, 885 F.2d 639, 640 (9th Cir. 1989). 18 In order to avoid dismissal for failure to state a claim a complaint must contain more than 19 "naked assertions," "labels and conclusions" or "a formulaic recitation of the elements of a cause 20 of action." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-557 (2007).

In other words, 21 "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory 22 statements do not suffice." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A claim upon which the 23 court can grant relief has facial plausibility. *Twombly*, 550 U.S. at 570. "A claim has facial 24 plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable 25 inference that the defendant is liable for the misconduct alleged." *Iqbal*, 556 U.S. at 678.

When 26 considering whether a complaint states a claim, the court must accept the allegations as true, 27 *Erickson v. Pardus*, 551 U.S. 89, 93-94 (2007), and construe the complaint in the light most 28 favorable to the plaintiff, *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974). 1 LEGAL STANDARDS 2 I. 42 U.S.C. § 1983 3 A plaintiff may bring an action under 42 U.S.C. § 1983 to redress violations of "rights, 4 privileges, or immunities secured by the Constitution and [federal] laws" by a person or entity, 5 including a municipality, acting under the color of state law.

42 U.S.C. § 1983. To state a claim 6 under 42 U.S.C. § 1983, a plaintiff must show that (1) a defendant acting under color of state law 7 (2) deprived plaintiff of rights secured by the Constitution or federal statutes. *Benavidez v. 8 County of San Diego*, 993 F.3d 1134, 1144 (9th Cir. 2021). 9 II. Linkage 10 Section 1983 requires that there be an actual connection or link between the actions of the 11 defendants and the deprivation alleged to have been suffered by plaintiff.

See *Monell v. 12 Department of Social Services*, 436 U.S. 658, 694 (1978); *Rizzo v. Goode*, 423 U.S. 362, 370-71 13 (1976). Plaintiff may demonstrate that connection by alleging facts showing: (1) a defendant's 14 "personal involvement in the constitutional deprivation," or (2) that a defendant set "in motion a 15 series of acts by others" or "knowingly refus[ed] to terminate a series of acts by others, which 16 [the defendant] knew or reasonably should have known would cause others to inflict a 17 constitutional injury." *Starr v. Baca*, 652 F.3d 1202, 1207-08 (9th Cir.

2011) (quotation marks 18 and citation omitted). 19 III. Eighth Amendment Excessive Force 20 The Eighth Amendment prohibits prison officials from inflicting cruel and unusual 21 punishment on inmates which, in excessive force cases, has been defined as "the unnecessary and 22 wanton infliction of pain." *Whitley v. Albers*, 475 U.S. 312, 319 (1986). "[W]henever prison 23 officials stand accused of using excessive physical force in violation of the Cruel and Unusual 24 Punishments Clause, the core judicial inquiry is... whether force was applied in a good-faith 25 effort to maintain or restore discipline, or maliciously and sadistically to cause harm." *Hudson v. 26 McMillan*, 503 U.S. 1, 7 (1992).

The Ninth Circuit applies a five-factor test to determine whether 27 the use of force was malicious and sadistic: (1) the extent of injury suffered by an inmate; (2) the 28 need for application of force; (3) the relationship between that need and the amount of force used; 1 (4) the threat reasonably perceived by the responsible officials; and (5) any efforts made to 2 temper the severity of the forceful response." *Hughes v. Rodriguez*, 31 F.4th 1211, 1221 (9th Cir.

3 2022) (citation omitted). 4 PLAINTIFF'S COMPLAINT 5 I. Factual Allegations 6 Plaintiff's complaint alleges a single Eighth Amendment excessive force claim against 7 five defendants: (1) Jeff Lynch, Warden; (2) Correctional Officer ("C/O") Banish; (3) C/O Jones; 8 (4) C/O Cofer; and (5) Correctional Sergeant Elizarraras. (ECF No. 1 at 3-4.) Plaintiff alleges 9 the excessive force took place on July 3, 2024, at California State Prison-Sacramento, New 10 Folsom.

(Id. at 5.) Plaintiff had compatibility issues with a cellmate as he was escorted from 11 R&R by defendants C/O Cofer and C/O Jones to housing B-5 Cell #113 in handcuffs. Plaintiff 12 spoke with Sergeant Elizarraras, who responded by intimidating plaintiff by sending an extra 13 officer to make sure plaintiff got inside the cell. (Id.) 14 Returning to front of Cell #113, C/O Jones nudged plaintiff forward.

Plaintiff then took a 15 step back and was attacked by all three officers. Defendant C/O Cofer pushed and pulled plaintiff 16 on one side and defendant C/O Banish punched plaintiff on the back of his neck, forcing plaintiff 17 face first into the wall. (ECF No. 1 at 4.) Defendant C/O Jones grabbed both of plaintiff's legs 18 from behind, making plaintiff fall headfirst to the ground.

Plaintiff was knocked unconscious, 19 suffering a swollen head and a gash to the left side of the brain. (Id.) All of this happened under 20 the direct authority of Warden J. Lynch. (Id.) Plaintiff

adds that he is a patient of mental health 21 services EOP. (Id.) Plaintiff seeks \$90,000 in damages for pain and suffering. (Id. at 8.) 22 II. Discussion 23 The undersigned finds that plaintiff's complaint states a cognizable Eighth Amendment 24 excessive force claim against the three C/Os involved in the use of the force incident – defendants 25 Cofer, Banish, and Jones.

As alleged, Cofer, Banish, and Jones attacked plaintiff when he “took a 26 step back” after defendant Jones nudged him forward towards his cell. Even assuming plaintiff's 27 step back was noncompliant with defendant Jones' instruction, it did not present the type of 28 immediate disciplinary need that would warrant the amount of force the defendants used in 1 response.

The extent of plaintiff's injuries, including being knocked unconscious, also supports a 2 finding that the alleged force was sadistic and malicious. Moreover, for linkage purposes, 3 plaintiff has alleged facts connecting each of the three C/O defendant's specific use of force to his 4 injuries.

Accordingly, plaintiff's complaint states a cognizable Eighth Amendment excessive 5 force claim against defendants Cofer, Banish, and Jones. 6 Plaintiff, however, has not pled adequate facts to link defendant Elizarraras to the alleged 7 unconstitutional use of force.

The complaint alleges only that defendant Elizarraras sent another 8 officer to intimidate plaintiff and make sure he returned to his cell. Plaintiff appears to be 9 suggesting that defendant Elizarraras was somehow involved, but the complaint does not contain 10 any facts to support a finding that Elizarraras participated in the alleged attack or otherwise “set 11 in motion a series of acts by others” that defendant “knew or reasonably should have known 12 would cause others to inflict a constitutional injury.” See *Starr*, 652 F.3d at 1207-08.

13 Finally, the complaint does not state a claim against defendant Lynch, the facility's 14 Warden. “A supervisor is only liable for constitutional violations of his subordinates if the 15 supervisor participated in or directed the violations, or knew of the violations and failed to act to 16 prevent them. There is no respondeat superior liability under § 1983.” *Taylor v. List*, 880 F.2d 17 1040, 1045 (9th Cir.

1989). Here, the complaint states only that the alleged attack “happen[ed] 18 under the direct authority of Warden J. Lynch.” (ECF No. 1 at 5.) Plaintiff offers no other 19 factual support for defendant Lynch's involvement in the alleged use of force. “Vague and 20 conclusory allegations of official participation in civil rights violations are not sufficient to 21 withstand [dismissal].” *Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir.

1982) (citations 22 omitted). Therefore, the complaint does not state an excessive force claim against J. Lynch. 23 III. Options From Which Plaintiff Must Choose 24 After conducting the screening required by 28 U.S.C. § 1915A(a), the court finds that 25 plaintiff has adequately stated a valid Eighth Amendment excessive force claim against 26 defendants Cofer, Banish, and Jones.

However, the allegations in the complaint are not sufficient 27 to state a cognizable excessive force claim against either defendant Elizarraras or defendant 28 Lynch. 1 It is conceivable that plaintiff may be able to allege facts to fix these problems.

Therefore, 2 plaintiff has the option of filing an amended complaint. After selecting an option from the two 3 options listed below, plaintiff must return the attached Notice of Election form to the court within 4 21 days from the date of this order: 5 Option 1: The first option available to plaintiff is to proceed immediately against 6 defendants Cofer, Banish and Jones on the Eighth Amendment excessive force claim.

By 7 choosing this option, plaintiff will be agreeing to voluntarily dismiss defendants Elizarraras and 8 Lynch. The court will proceed to immediately serve the complaint and order a response from 9 defendants Cofer, Banish, and Jones. 10 Option 2: The second option available to plaintiff is to file an amended complaint to fix 11 the problems described above regarding defendants Elizarraras and Lynch.

If plaintiff chooses 12 this option, the court will set a deadline in a subsequent order to give plaintiff time to file an 13 amended complaint. 14 If plaintiff chooses to file an amended complaint, he must demonstrate how the conditions 15 about which he complains resulted in a deprivation of his constitutional rights. *Rizzo*, 423 U.S. at 16 370-71. Also, the complaint must specifically identify how each named defendant is involved.

17 *Arnold v. Int'l Bus. Machs. Corp.*, 637 F.2d 1350, 1355 (9th Cir. 1981). There can be no liability 18 under 42 U.S.C. § 1983 unless there is some affirmative link or connection between a defendant's 19 actions and the claimed deprivation. *Id.*; *Johnson v. Duffy*, 588 F.2d 740, 743 (9th Cir. 1978). 20 Plaintiff is also informed that the court will not refer to a prior pleading in order to make his 21 amended complaint complete.

See Local Rule 220. This is because, as a general rule, an 22 amended complaint replaces the prior complaint. *Loux v. Rhay*, 375 F.2d 55, 57 (9th Cir. 1967) 23 (citations omitted), overruled in part by *Lacey v. Maricopa County*, 693 F.3d 896, 928 (9th Cir. 24 2012).

Therefore, in an amended complaint, every claim and every defendant must be included. 25 ////
26 //// 27 //// 28 //// 1 CONCLUSION 2 In accordance with the above, IT IS HEREBY ORDERED that: 3 1. Plaintiffs request for leave to proceed in forma pauperis (ECF No. 2) is GRANTED. 4 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action.

Plaintiff 5 || is assessed an initial partial filing fee in accordance with the provisions of 28 U.S.C. 6 || § 1915(b)(1). All fees shall be collected and paid in accordance with this court's concurrently 7 || filed order to the appropriate agency. 8 3. Plaintiff's claims against defendants Elizarraras and Lynch do not state claims for 9 || which relief can be granted.

10 4. Plaintiff has the option to proceed immediately on his cognizable Eighth Amendment 11 ||
excessive force claim against defendants Cofer, Banish, and Jones, as set forth above, or to file an
12 | amended complaint. 13 5. Within 21 days from the date of this order, plaintiff shall complete
and return the 14 || attached Notice of Election form notifying the court whether he wants to
proceed on the screened 15 | complaint or whether he wants to file an amended complaint.

16 6. If plaintiff does not return the form, the court will assume that he is choosing to 17 | proceed
on the complaint as screened and will recommend dismissal without prejudice of 18 | defendants
Elizarraras and Lynch. 19 | DATED: May 21, 2025 20 mk 21 SEAN C. RIORDAN UNITED
STATES MAGISTRATE JUDGE 23 24 25 26 27 28 1 2 3 4 5 6 7 8 UNITED STATES DISTRICT
COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 KAMARON L. WALKER,
No. 2:24-cv-02345 SCR P 12 Plaintiff, 13 v. NOTICE OF ELECTION 14 JEFF LYNCH, et al., 15
Defendants.

16 17 Check one: 18 _____ Plaintiff wants to proceed immediately on his Eighth Amendment
excessive force claims 19 against defendants Cofer, Banish, and Jones without amending the
complaint. Plaintiff 20 understands that by choosing this option, defendants Elizarraras and Lynch
will be 21 voluntarily dismissed without prejudice pursuant to Federal Rule of Civil Procedure
41(a).

22 23 _____ Plaintiff wants time to file an amended complaint. 24 25
DATED:_____ 26 Kameron L. Walker Plaintiff pro se 27 28