

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Nathanael Smith v. Newsome et al.

Case No. 1:24-cv-00592-KES-BAM (E.D. Cal. Jan. 14, 2026) · No. 1:24-cv-00592-KES-BAM · Decided
January 15, 2026

SUMMARY

The document contains Findings and Recommendations from the U.S. District Court for the Eastern District of California recommending dismissal of Nathanael Smith’s Second Amended Complaint against Newsome and other defendants. The court concludes that the complaint violates Federal Rule of Civil Procedure 8, fails to state cognizable constitutional or statutory claims, and seeks impermissible federal review of state-court custody, visitation, child-support, and restraining-order decisions. The court also concludes that further amendment would be futile and recommends dismissal with prejudice without further leave to amend.

OPINION

Newsome

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 NATHANAEL SMITH, Case No. 1:24-cv-00592-KES-BAM 12 Plaintiff, FINDINGS AND
RECOMMENDATIONS

THAT THIS ACTION BE DISMISSED

13 v. AND PLAINTIFF BE DENIED LEAVE

TO AMEND

14 NEWSOME et al., (Doc. 14) 15 Defendants. 16 17 18 On April 14, 2025, Plaintiff Nathanael
Smith (“Plaintiff”), proceeding pro se and in forma 19 pauperis, filed his Second Amended
Complaint (“SAC”) against Defendants Judge Kevin Seibert, 20 Judge Hallie Campbell, Judge
David Beyersdorf, Commissioner Philip Pimentel, Ryan Campbell, 21 Veronica Roberts, Nate
Nutting, Clint Parish, Central Sierra Child Support Agency, Olivia 22 Phillips, and Juley Salkeld.
(Doc. 14 at 9-11.) The Court previously screened Plaintiff’s First 23 Amended Complaint (“FAC”)
and found that it failed to comply with Federal Rule of Civil

24 Procedure 8 and failed to state a cognizable claim. (Doc. 11 at 11.) Because Plaintiff is
25 proceeding pro se, the Court granted Plaintiff an opportunity to amend his complaint to cure
the 26 identified deficiencies, to the extent he was able to do so in good faith. (Id.) Plaintiff’s SAC

27 (Doc. 14) is currently before the Court for screening. 28 Plaintiff has failed to remedy the deficiencies identified in the Court's initial screening 1 order. (Doc. 11.) This is Plaintiff's third complaint, and it appears to the Court that any further 2 amendment would be futile. *Hartmann v. CDCR*, 707 F.3d 1114, 1130 (9th Cir. 2013) ("A 3 district court may deny leave to amend when amendment would be futile.") The Court will 4 therefore recommend dismissal of this action for failure to comply with Federal Rule of Civil

5 Procedure 8 and failure to state a claim.

6 I. Screening Requirement and Standard 7 As described in the Court's initial screening order, the Court is required to screen 8 complaints brought by persons proceeding in pro se and in forma pauperis. 28 U.S.C. § 9 1915(e)(2). Plaintiff's complaint, or any portion thereof, is subject to dismissal if it is frivolous or 10 malicious, if it fails to state a claim upon which relief may be granted, or if it seeks monetary 11 relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B)(ii). A 12 complaint must contain "a short and plain statement of the claim showing that the pleader is 13 entitled to relief" Fed. R. Civ. P. 8(a)(2). Detailed factual allegations are not required, but 14 "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory 15 statements, do not suffice." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Bell Atlantic 16 Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). While a plaintiff's allegations are taken as true, 17 courts "are not required to indulge unwarranted inferences." *Doe I v. Wal-Mart Stores, Inc.*, 572 18 F.3d 677, 681 (9th Cir. 2009) (internal quotation marks and citation omitted). To survive 19 screening, Plaintiff's claims must be facially plausible, which requires sufficient factual detail to 20 allow the Court to reasonably infer that each named defendant is liable for the misconduct 21 alleged. *Iqbal*, 556 U.S. at 678 (quotation marks omitted); *Moss v. U.S. Secret Serv.*, 572 F.3d 22 962, 969 (9th Cir. 2009). The sheer possibility that a defendant acted unlawfully is not sufficient, 23 and mere consistency with liability falls short of satisfying the plausibility standard. *Iqbal*, 556 24 U.S. at 678 (quotation marks omitted); *Moss*, 572 F.3d at 969. 25 II. Summary of Plaintiff's Allegations 26 The factual allegations contained within Plaintiff's SAC are substantially similar to his 27 FAC, which has already been summarized in detail in the Court's initial screening order. (Doc. 28 11 at 2-3.) In his SAC, Plaintiff provides handwritten annotations, highlighting, arrows, and 1 brackets to bring certain allegations and explanations to the Court's attention and ostensibly 2 address the deficiencies raised in the Court's initial screening order. Plaintiff's SAC also includes 3 a handwritten letter requesting the assigned magistrate judge be removed from this action. (Id. at 4 8.) 5 Broadly, Plaintiff alleges that various California state court judges, commissioners, and 6 employees, as well as various agencies and individuals, unfairly limited his custody and visitation 7 rights, engaged in litigation abuse, are "attempting to claim I have schizophrenia and delusional 8 and said they are going to try and force drugs," violated his constitutional rights, engaged in 9 judicial overreach and "Title IV-D Fraud," unfairly incarcerated him, and perpetrated "ongoing 10 bias and procedural irregularities" in the course of the judicial proceedings.¹ (Doc. 14 at 12-15.) 11

Plaintiff brings claims under the First, Second, Fifth, Sixth, Seventh, Eighth, and 12 Fourteenth Amendments. (Id. at 2.) Plaintiff also purports to bring claims under 18 USC §§ 241, 13 242, 286, 287, 371, 1031, 1951(a)(b)(2), 1961(1)(A)(B)(2)(3)(4)(5), 2382, 455, 31 USC § 14 3729(a)(1)(A) (B)(E), 42 USC §§ 658, 458, and 458 Title IV-D. (Id.) Plaintiff alleges that the 15 actions of the Defendants have caused emotional and psychological harm, impacts to his physical 16 and mental health, economic damages due to loss of employment and “disproportionate” child 17 support payments, and loss of his “son, dog, house, car and freedom.” (Id. at 3.) 18 Plaintiff seeks \$100,000,000 in monetary damages, “an injunction to cease the 19 enforcement of the arbitrary orders presently in effect,” that his son “be restored to [his] care 20 immediately in full custody,” and for the Court to “consider criminal charges brought against all 21 parties involved.” (Id. at 3-4.) Plaintiff lists ten injunctions that he requests the Court to take 22 “immediate action[.]” on, including (1) rescission of a November 15, 2022 Domestic Violence 23 Restraining Order (“DVRO”), (2) termination of the requirement to exchange custody at a police 24 station as ordered on March 14, 2023, (3) reversal of the one-year July 7, 2023 DVRO, (4) 25 cancellation of the July 10, 2023 prohibition against recording interactions with Plaintiff’s son, 26 1 The state court action at issue appears to be Nathaniel Smith v. Olivia Phillips, Case No. 27 FL17431, filed in the Tuolumne County Superior Court. Elsewhere, Plaintiff points to other cases in Tuolumne County Superior Court: Case Nos. FL17431, CV65761, CRM75348, and 28 CRM75349. (Doc. 14 at 15.) 1 (5) reversal of the August 1, 2023 visitation limitation, (6) exclusion of Plaintiff’s son from the 2 DVRO, (7) rescission of the February 2, 2024 No-Visitation Order, (8) Reversal of the March 15, 3 2024 DVRO denial, (9) restoration of Plaintiff’s custody rights and reversal of FC3022.3 denial, 4 and (10) reversal of the May 20, 2024 civil restraining order. (Doc. 14 at 5.) Plaintiff further lists 5 several “extra requests,” including that “all the immunities be pierced of all parties based on this 6 action” on the basis that “[t]he judges in question clearly had no jurisdiction to make all these 7 unconstitutional orders, they have been acting completely out of control without any proper 8 management,” “they have been behaving without limitations, kidnapping children away from 9 parents that have never been deemed unfit for revenue generation and just for the sheer joy of 10 being a tyrant,” and requesting that “[t]hese judges need to be removed from the bench 11 immediately” and “consider all parties to be brought up on criminal charges.” (Id. at 5-6.) 12 Plaintiff attaches court decisions that he argues “show federal family court intervention.” 13 (Id. at 7.) Plaintiff further alleges that “[t]he situation we are dealing with is not an isolated 14 incident; it is part of a broader, systemic issue within Tuolumne County that has left many parents 15 struggling to reclaim their rights and reunite with their children . . . This problem has reached a 16 magnitude that necessitates Federal Intervention to ensure that the rights of parents and the well- 17 being of children are safeguarded.” (Id. at 53.) Plaintiff further asserts that he is bringing these 18 claims on behalf of other parents: 19 We are not alone in this fight; there is a collective plea from parents across Tuolumne County who are desperate for change and justice. On behalf of all the parents who have 20 endured similar

hardships, I extend our deepest gratitude for taking the time to review our complaint and plea. Your attention to this matter brings hope to many who have felt 21 voiceless and powerless in the face of systemic abuse. 22 (Id. at 53.) 23 III. Discussion 24 A. Federal Rule of Civil Procedure 8 25 As noted in the Court’s initial screening order, a complaint must contain “a short and plain 26 statement of the claims showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). 27 Plaintiff must set forth “sufficient factual matter, accepted as true, to ‘state a claim to relief that is 28 plausible on its face.’” *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 570). Plaintiff was 1 advised that where factual allegations are accepted as true, legal conclusions are not, and that a 2 mere recital of constitutional elements or the elements of a particular cause of action is not 3 sufficient. (Doc. 11 at 4.) Plaintiff was further advised that the Court cannot “sift through” 4 stacks of exhibits “to determine if some nugget is buried somewhere in that mountain of papers, 5 waiting to be unearthed and refined into a cognizable claim.” *Lam v. California Dep’t of Corr. & 6 Rehab.*, No. 1:23-CV-01167-BAM-PC, 2023 WL 8701254, at *2 (E.D. Cal. Dec. 15, 2023), 7 report and recommendation adopted, No. 1:23-CV-1167-JLT-BAM-PC, 2024 WL 201269 (E.D. 8 Cal. Jan. 18, 2024). 9 While significantly shorter than the FAC, Plaintiff’s SAC continues to rely on broadly 10 stated constitutional and statutory violations. Much of Plaintiff’s SAC consists of summaries of 11 case law that he argues show that his constitutional rights were violated and that immunity does 12 not apply. Plaintiff still does not explain how the cited federal statutes were violated or provide 13 sufficient factual allegations regarding the alleged constitutional and statutory violations. The 14 SAC is comprised of what would more aptly be described as legal argument rather than new 15 allegations of fact. The Court is not required to accept vague and conclusory statements. *Iqbal*, 16 556 U.S. at 678 (citation omitted). Nor is the Court “bound to accept as true a legal conclusion 17 couched as a factual allegation.” *Id.* (citing *Twombly*, 550 U.S. at 555). 18 Accordingly, Plaintiff’s SAC does not comply with Rule 8 of the Federal Rules of Civil 19 Procedure. 20 B. Jurisdiction – Child Custody, Visitation, and Child Support Claims 21 As noted in the Court’s initial screening order, the Court is without jurisdiction over 22 claims regarding child custody, visitation, child support, or restraining orders. (See Doc. 11 at 4- 23 5) (citing *Ankenbrandt v. Richards*, 504 U.S. 689, 702-704 (1992)). Plaintiff’s SAC includes 24 handwritten annotations, brackets, and arrows purporting to clarify why the Court has jurisdiction 25 over these claims. 26 The Court has reviewed the cases cited by Plaintiff in his SAC and finds that the cases do 27 not provide a basis for jurisdiction. Plaintiff cites several cases, including a 1980 Kansas Court of 28 Appeals decision (*In Int. of Cooper*, 5 Kan. App. 2d 584, 621 P.2d 437 (1980), rev’d, 230 Kan. 1 57, 631 P.2d 632 (1981)), an 1886 U.S. Supreme Court decision (*Yick Wo v. Hopkins*, 118 U.S. 2 356 (1886)), a 2017 Ninth Circuit decision (*Hardwick v. Cnty. of Orange*, 844 F.3d 1112 (9th Cir. 3 2017), and a 2017 Georgia Court of Appeals decision (*In Int. of C. H.*, 343 Ga. App. 1, 805 4 S.E.2d 637 (2017)). (See Doc. 14 at 6, 56, 57.) These opinions do not establish that the Court has 5 jurisdiction to hear this dispute. 26 Contrary to Plaintiff’s assertions, the issue is not whether a District Court is able to rule 7 on constitutionally protected liberty

interests implicated in custody cases. Rather, as the Court 8 noted in its initial screening order, the issue is whether Plaintiff is asking the District Court to 9 review and reject a state court's final judgment. (Doc. 11 at 4-5.) The Court lacks subject matter 10 jurisdiction to hear an appeal from the judgment of a state court. See *Exxon Mobil Corp. v. Saudi 11 Basic Indus. Corp.*, 544 U.S. 280, 284 (2005) (Rooker-Feldman doctrine applies to "cases 12 brought by state-court losers complaining of injuries caused by state-court judgments rendered 13 before the district court proceedings commenced and inviting district court review and rejection 14 of those judgments.") Under 28 U.S.C. § 1257, the U.S. Supreme Court has exclusive appellate 15 jurisdiction over state court judgments. *Lance v. Dennis*, 546 U.S. 459, 463 (2006). 16 Plaintiff is requesting that the Court alter the existing custody arrangement (requesting his 17 son "be restored to my care immediately in full custody"; requesting that the Court "return my 18 son to his father . . . who is demonstrably the healthier and more capable parent"), alter existing 19 state court DVROs, and order the Tuolumne County Superior Court judges deciding his custody 20 proceeding to be removed. (Doc. 14 at 28.) Plaintiff challenges the state court proceedings, 21 alleges errors occurred, and challenges his child support payments ("[state court judge] ordered 22 2 In Int. of Cooper is a Kansas state court decision ruling on a narrow issue of first impression in 23 Kansas state law, concerning whether counsel would be appointed when custody is temporarily removed from a parent under Kan. Stat. Ann. § 38-820 (Repealed by Laws 1982, ch. 182, § 150). 24 Yick Wo v. Hopkins concerns a challenge to a racially discriminatory San Francisco ordinance relating to the regulation of laundry businesses. *Hardwick v. Cnty. of Orange* concerns a civil 25 rights action brought under 42 U.S.C. § 1983, "involving only legal issues regarding the [county Social Services Agency] employees' claims of an entitlement to immunity." *Hardwick*, 844 F.3d 26 at 1115. Finally, In Int. of C. H., the Georgia Court of Appeals considers whether parents were 27 afforded their right under Georgia statute and the Fourteenth Amendment to counsel in dependency proceedings. These cases do not relate to or opine on the Rooker-Feldman doctrine 28 or otherwise establish that the Court has jurisdiction to hear this dispute. 1 child support higher than my mortgage payment without considering the child's needs or 2 obtaining updated financial statements from the mother.") (Id. at 37.) Plaintiff is explicitly 3 requesting the Court review his state court proceedings. (Id. at 14) ("My struggle culminated in a 4 plea to higher courts and federal authorities to address the grievous misapplications of law," 5 Plaintiff's state court cases "symbolize a pervasive problem demanding immediate attention and 6 rectification".) Plaintiff seems to be bringing this case as a way to request federal intervention in 7 state court. (Id. at 53, 7) (requesting "federal family court intervention," "[t]his problem has 8 reached a magnitude that necessitates Federal Intervention to ensure that the rights of parents and 9 the well-being of children are safeguarded.") Furthermore, Plaintiff is requesting that the Court 10 order him released from the County Jail. (Id. at 13) ("I'm locked in County Jail on a no bail hold, 11 please release me they are claiming 7 felonies. Contact Cass the DA for Tuolumne County".) 12 As previously discussed in the initial screening order, District Courts lacks subject matter 13

jurisdiction to review the final determinations of state court dependency proceedings. (See Doc. 14 at 5) (citing *Worldwide Church of God v. McNair*, 805 F.2d 888, 890 (9th Cir.1986)). Federal 15 courts are prohibited from exercising appellate review over final state court judgments. *Reusser 16 v. Wachovia Bank, N.A.*, 525 F.3d 855, 858 (9th Cir. 2008); *Henrichs v. Valley View Dev.*, 474 17 F.3d 609, 613 (9th Cir. 2007). The Ninth Circuit has recognized that “[t]he clearest case for 18 dismissal based on the Rooker–Feldman doctrine occurs when a federal plaintiff asserts as a legal 19 wrong an allegedly erroneous decision by a state court, and seeks relief from a state court 20 judgment based on that decision.” *Reusser*, 525 F.3d at 859 (quoting *Henrichs v. Valley View 21 Dev.*, 474 F.3d 609, 613 (9th Cir.2007)). That is explicitly what Plaintiff is requesting the Court 22 do in this case. 23 State courts are competent to adjudicate federal constitutional claims. *Id.* Plaintiff was 24 able to raise his constitutional claims in state court, and if he failed to do so, that “does not mean 25 that a United States District Court should have jurisdiction over the claims.” *Id.* If Plaintiff 26 wishes to appeal the state court decisions, Plaintiff should pursue appellate proceedings in state 27 court. *Rooker v. Fid. Tr. Co.*, 263 U.S. 413, 415 (1923) (“If the decision was wrong, that did not 28 make the judgment void, but merely left it open to reversal or modification in an appropriate and 1 timely appellate proceeding.”) 2 The SAC does not establish that the Court has jurisdiction to review, reverse, or modify 3 any state court order in the state court matter. Accordingly, the Court has no jurisdiction to 4 review any final judgments in the State Court Action. 5 C. Constitutional Claims 6 Like the FAC, the SAC asserts claims under the Constitution’s First, Second, Fifth, Sixth, 7 Seventh, Eighth, and Fourteenth Amendments. (Doc. 14 at 2.) In its initial screening order, the 8 Court extensively considered each of these claims and identified the deficiencies that Plaintiff’s 9 SAC must cure in order to bring these claims. The Court refers back to its initial screening order 10 for further discussion of the legal background of each claim. 11 1. First Amendment 12 Plaintiff alleges that the November 15, 2022, July 7, 2023, and March 15, 2024 DVROs, 13 court-ordered therapy, and the prohibition against recording interactions with his son constitutes a 14 violation of Plaintiff’s First Amendment rights. (*Id.* at 4-5.) Plaintiff additionally argues that 15 “[a]t the end of the trial, Judge Campbell permitted Juley Salkeld to argue that I did not need 16 Christmas Eve with my son because I am a ‘Jehovah’s Witness.’ Judge Campbell then removed 17 my usual overnight holiday visitation with my son. The claim that I am a Jehovah’s Witness was 18 untrue, and even if it were true, it would constitute a violation of my 1st Amendment rights.” (*Id.* 19 at 19.) Plaintiff seeks rescission of the relevant court orders. (*Id.* at 4-5.) 20 As explained above and in the Court’s initial screening order, the Court cannot review or 21 alter the State Court final judgments. *Rooker*, 263 U.S. at 415; *District of Columbia Court of 22 Appeals v. Feldman*, 460 US 462, 483 (1983). Moreover, state courts have “virtually exclusive 23 province” to regulate domestic relations. *Sosna v. Iowa*, 419 U.S. 393, 404 (1975). 24 Additionally, as held in the Court’s initial screening order, Plaintiff still does not provide 25 factual allegations regarding how any Defendant abridged his right to free speech. (Doc. 11 at 6.) 26 Plaintiff does not state a claim under the First

Amendment. 27 2. Second Amendment 28 Plaintiff alleges that the November 15, 2022 and July 7, 2023 DVROs and court-ordered 1 therapy infringe on his Second Amendment rights. (Doc. 14 at 4.) In its initial screening order, 2 the Court noted that Plaintiff will have to include sufficient factual allegations related to any 3 limitation on Second Amendment rights. (Doc. 11 at 6.) 4 Plaintiff has not remedied this deficiency. Plaintiff does not state a claim under the 5 Second Amendment. 6 3. Fifth Amendment 7 Plaintiff alleges that the February 2, 2024 No-Visitation Order, the March 15, 2024 8 DVRO denial, and the April 2, 2024 decision regarding visitation and Plaintiff's request for a 9 statement of decision under FC3022.3 violate Plaintiff's Fifth Amendment rights. (Doc. 14 at 5.) 10 As the Court's initial screening order states, "the Fifth Amendment's due process clause applies 11 only to the federal government." *Bingue v. Prunchak*, 512 F.3d 1169, 1174 (9th Cir. 2008). 12 Plaintiff still does not allege that any defendants are employees of the federal government. 13 (See Doc. 14 at 9-11.) Plaintiff does not state a claim under the Fifth Amendment. 14 4. Sixth Amendment 15 Plaintiff alleges that the February 2, 2024 state court order relating to visitation, the March 16 15, 2024 DVRO denial, and the April 2, 2024 decision regarding visitation and Plaintiff's request 17 for a statement of decision under FC3022.3 violate Plaintiff's Sixth Amendment rights. (Doc. 14 18 at 5.) As the Court's initial screening order notes, the protections of the Sixth Amendment apply 19 to criminal proceedings. See *Austin v. United States*, 509 U.S. 602, 608 (1993) ("The protections 20 provided by the Sixth Amendment are explicitly confined to criminal prosecutions.") (quotation 21 omitted). The Sixth Amendment is not implicated in custody, visitation, or civil restraining order 22 proceedings. See *Le v. Scott*, No. G038868, 2008 WL 616254, at *3 (Cal. Ct. App. Mar. 7, 2008) 23 ("The Sixth Amendment applies only to criminal actions. A domestic violence petition is not a 24 criminal action.") 25 Plaintiff has not alleged any facts that support a Sixth Amendment claim. Plaintiff does 26 not state a claim under the Sixth Amendment. 27 5. Seventh Amendment 28 Plaintiff alleges that his Seventh Amendment rights were violated but does not include 1 more than a conclusory statement in support. (Doc. 14 at 2) ("The Federal Constitution's First, 2 Second, Sixth, Seventh, Eighth, and Fourteenth Amendments have clearly been breached.") The 3 initial screening order pointed out the lack of supporting allegations. (Doc. 11 at 7.) 4 Plaintiff has not corrected this deficiency. Accordingly, Plaintiff does not state a claim 5 under the Seventh Amendment. 6 6. Eighth Amendment 7 Plaintiff alleges that the November 15, 2022 and July 7, 2023 DVRO, requirement to 8 exchange custody at a police station, court-ordered therapy, visitation limitations, March 15, 2024 9 DVRO denial, and the April 2, 2024 decision regarding visitation and Plaintiff's request for a 10 statement of decision under FC3022.3 violate Plaintiff's Eighth Amendment rights. (Doc. 14 at 11 4-5.) Plaintiff further alleges that the state court judge's decision to add Plaintiff's child to an 12 existing restraining order constituted a violation of the Eighth Amendment (*Id.* at 19.) 13 As noted in the initial screening order, the Eighth Amendment is designed to protect those 14 convicted of crimes. (Doc. 11 at 7) (citing *Bell v. Wolfish*, 441 U.S. 520, 535 n.16 (1979); 15 *Ingraham v. Wright*, 430 U.S. 651, 671 n.40 (1977)). Plaintiff's SAC still

contain no allegations 16 that have to do with the imposition of punishment or the conditions of Plaintiff's confinement. 17 Rather, Plaintiff's allegations of harm stem from the custody decisions in the underlying state 18 court case, along with various decisions related to DVROs. See *Spears v. El Dorado Cnty. Cts.*,

19 No. 2:16-CV-2655-DMC-P, 2019 WL 3202802, at *3 (E.D. Cal. July 16, 2019) (finding that the

20 factual basis for prisoner's Eighth Amendment claims do not relate to the imposition of 21 punishment or the conditions of his confinement but rather relate to separate guardianship and 22 dependency hearings, and thus are "not a separate constitutional tort.") 23 Plaintiff has not corrected this deficiency. Accordingly, Plaintiff does not state a claim 24 under the Eighth Amendment. 25 7. Fourteenth Amendment 26 Plaintiff alleges that the November 15, 2022 and July 7, 2023 DVROs, prohibition against 27 recording interactions with his son, restrictions on visitation, inclusion of his son in a DVRO on

28 January 2, 2024, March 15, 2024 DRVO denial, "[g]ranting a Temporary Restraining Order 1 (TRO) for a constitutionally protected activity, while allowing an attorney and mother to submit 2 fraudulent evidence," (Doc. 14 at 29, 44, 52), and the April 2, 2024 decision regarding visitation 3 and Plaintiff's request for a statement of decision under FC3022.3 violate Plaintiff's Fourteenth 4 Amendment rights. (Id. at 4-5.) 5 As noted in the initial screening order, to state a claim for violation of the Fourteenth 6 Amendment's Due Process clause, Plaintiff is required to allege more than conclusory statements 7 by which the Court could reasonably infer that Plaintiff has not received the process due from 8 Defendants as it relates to his allegations in this action. (Doc. 11 at 8-9.) Additionally, to state a 9 claim for violation of the Fourteenth Amendment's Equal Protection Clause, Plaintiff must allege 10 that he is a member of a protected class or that any named defendant acted with the intent or 11 purpose to discriminate against him due to his membership in that class. (Id. at 9.) 12 Plaintiff has not corrected this deficiency. Accordingly, Plaintiff does not state a claim 13 under the Fourteenth Amendment. 14 D. Claims under the United States Code 15 Similarly, like the FAC, the SAC asserts claims under 18 U.S.C. § 241, 18 U.S.C. § 242, 16 18 U.S.C. § 286, 18 U.S.C. § 287, 18 U.S.C. § 371, 18 U.S.C. § 1031, 18 U.S.C. § 1951(a)(b)(2), 17 18 U.S.C. § 1961(1)(A)(B)(2)(3)(4)(5), 18 U.S.C. § 2382, 18 U.S.C. § 455, 31 U.S.C. § 18 3729(a)(1)(A)(B)(E), 42 U.S.C. § 658, and 458 Title IV-D. (Doc. 14 at 2.) 19 The SAC fails to rectify any of the flaws identified in the initial screening order. Plaintiff 20 does not include any new allegations relating to his claims under these statutes. As noted by the 21 Court in its initial screening order, there is no language in these sections that would imply a cause 22 of action exists to allow Plaintiff to seek a remedy pursuant to these criminal statutes in this 23 action. (Doc. 11 at 9-10.) 24 Plaintiff references 42 U.S.C. § 1983 at two points in the SAC, but does not clearly state 25 whether he is bringing claims under this section. (Doc. 14 at 15, 44.) Nor does Plaintiff make 26 any allegations regarding any specific defendant or allege an actual connection or link between 27 the actions of the named defendants and the alleged deprivations.

See *Monell v. Dep't of Soc. 28 Servs.*, 436 U.S. 658 (1978). Federal Rule of Civil Procedure 8 requires that complaints contain a 1 “short and plain statement of the claim showing that the pleader is entitled to relief.” Fed.R.Civ.P. 2 8(a)(2). Plaintiff is required to allege “with some degree of particularity overt acts by specific 3 defendants which support the claims.” *Spears v. Weiner*, No. 2:14-CV-0950-CMK-P, 2015 WL 4 1440319, at *5 (E.D. Cal. Mar. 27, 2015). Vague and conclusory allegations do not satisfy this 5 standard. *Id.* While the Court construes pro se pleadings liberally, a liberal construction of the 6 complaint may not supply essential elements of a claim not pleaded by the plaintiff. *Bruns v. 7 Nat'l Credit Union Admin.*, 122 F.3d 1251, 1257 (9th Cir. 1997). 8 Plaintiff does not state a claim under any of the cited sections of the United States Code. 9 E. Immunity 10 Plaintiff states that he “ha[s] extensive case law demonstrating that most, if not all, of the 11 orders in question are void, and that immunity could be removed due to a conspiracy to deprive 12 rights under 18 U.S.C. § 241” (Doc. 14 at 41), and that the state court judges acted illegally by 13 “[g]ranting a Temporary Restraining Order (TRO) for a constitutionally protected activity, while 14 allowing an attorney and mother to submit fraudulent evidence, constitutes a felony and 15 undermines the fundamental rights protected by the 8th and 14th Amendments of the 16 Constitution.” (*Id.* at 52.) 17 As noted in the initial screening order, judges are absolutely immune from damage actions 18 for judicial acts taken within the jurisdiction of their courts. See *Schucker v. Rockwood*, 846 F.2d 19 1202, 1204 (9th Cir. 1988). This immunity is lost only when the judge acts in the clear absence 20 of all jurisdiction or performs an act that is not judicial in nature. See *id.* Plaintiff has not alleged 21 facts that either circumstance applies here. Judges retain their immunity from suit even when 22 they are accused of acting maliciously or corruptly, see *Mireles v. Waco*, 502 U.S. 9, 11 (1991), 23 and when they are accused of acting in error, see *Meek v. County of Riverside*, 183 F.3d 962, 965 24 (9th Cir. 1999); *Schucker*, 846 F.2d at 1204 (“Grave procedural errors or acts in excess of judicial 25 authority do not deprive a judge of this immunity”). Judicial immunity extends to the actions 26 of court personnel when they act as “an integral part of the judicial process.” See *Mullis v. 27 U.S. Bankruptcy Court*, 828 F.2d 1385, 1390 (9th Cir. 1987). 28 Plaintiff is seeking to hold the judicial defendants liable for acts taken in the underlying 1 state court custody cases. Plaintiff cannot state claims against the defendant judges or court 2 personnel because judges have absolute immunity for judicial acts taken within the jurisdiction of 3 their courts. 4 IV. Conclusion and Recommendation 5 For the reasons stated, it is HEREBY RECOMMENDED that: 6 1. Plaintiff’s claims be dismissed, with prejudice, based on Plaintiff’s failure to comply 7 with Federal Rule of Civil Procedure 8 and failure to state a claim; and 8 2. The Court declines to provide Plaintiff further leave to amend because further 9 amendments would be futile. 10 These Findings and Recommendations will be submitted to the United States District 11 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within 12 fourteen (14) days after being served with these Findings and Recommendations, the parties may 13 file written objections with the court. The document should be captioned “Objections to 14 Magistrate Judge’s Findings and

Recommendations.” Objections, if any, shall not exceed 15 fifteen (15) pages or include exhibits. Exhibits may be referenced by document and page 16 number if already in the record before the Court. Any pages filed in excess of the 15-page 17 limit may not be considered. The parties are advised that failure to file objections within the 18 specified time may result in the waiver of the “right to challenge the magistrate’s factual 19 findings” on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 838–39 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)). 21
22 IT IS SO ORDERED. 23 Dated: January 14, 2026 /s/ Barbara A. McAuliffe _
24 UNITED STATES MAGISTRATE JUDGE
25 26 27 28