

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Isaiah Washington v. J. Cavagnolo, et al.

Washington v. Cavagnolo · No. 2:25-cv-02204-EFB (PC) · Decided November 12, 2025

OPINION

Cavagnolo

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 ISAIAH WASHINGTON, No. 2:25-cv-02204-EFB (PC)

12 Plaintiff,

13 v. ORDER AND FINDINGS AND

RECOMMENDATIONS

14 J. CAVAGNOLO, et al., 15 Defendants. 16 17 Plaintiff is a state prisoner proceeding without
counsel in an action brought pursuant to 42 18 U.S.C. § 1983. This proceeding was referred to this
court by Local Rule 302 pursuant to 28 19 U.S.C. § 636(b)(1). Plaintiff has also filed an
application to proceed in forma pauperis and a 20 motion for preliminary injunctive relief. ECF
Nos. 2, 4. 21 I. Request to Proceed In Forma Pauperis 22 Plaintiff’s application makes the
showing required by 28 U.S.C. § 1915(a)(1) and (2). 23 Accordingly, by separate order, the court
directs the agency having custody of plaintiff to collect 24 and forward the appropriate monthly
payments for the filing fee as set forth in 28 U.S.C. 25 § 1915(b)(1) and (2). 26 II. Screening
Requirement and Standards 27 Federal courts must engage in a preliminary screening of cases in
which prisoners seek 28 redress from a governmental entity or officer or employee of a
governmental entity. 28 U.S.C. 1 § 1915A(a). The court must identify cognizable claims or
dismiss the complaint, or any portion 2 of the complaint, if the complaint “is frivolous, malicious,
or fails to state a claim upon which 3 relief may be granted,” or “seeks monetary relief from a
defendant who is immune from such 4 relief.” Id. § 1915A(b). 5 This standard is echoed in 28
U.S.C. § 1915(e)(2), which requires that courts dismiss a 6 case in which a plaintiff proceeds in
forma pauperis at any time if it determines, among other 7 things, that the action “is frivolous or
malicious,” “fails to state a claim on which relief may be 8 granted,” or “seeks monetary relief
against a defendant who is immune from such relief.” “[The] 9 term ‘frivolous,’ when applied to a
complaint, embraces not only the inarguable legal conclusion, 10 but also the fanciful factual
allegation.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989) 11 (discussing the predecessor to

modern § 1915(e)(2), former § 1915(d)). Thus, § 1915(e)(2) 12 allows judges to dismiss a claim based on factual allegations that are clearly baseless, such as 13 facts describing “fantastic or delusional scenarios.” *Id.* at 327-38. 14 A pro se plaintiff, like other litigants, must satisfy the pleading requirements of Rule 8(a) 15 of the Federal Rules of Civil Procedure. Rule 8(a)(2) “requires a complaint to include a short and 16 plain statement of the claim showing that the pleader is entitled to relief, in order to give the 17 defendant fair notice of what the claim is and the grounds upon which it rests.” *Bell Atl. Corp. v. 18 Twombly*, 550 U.S. 544, 554, 562-563 (2007) (citing *Conley v. Gibson*, 355 U.S. 41 (1957)). 19 While the complaint must comply with the “short and plain statement” requirements of Rule 8, 20 its allegations must also include the specificity required by *Twombly* and *Ashcroft v. Iqbal*, 556 21 U.S. 662, 679 (2009). 22 To avoid dismissal for failure to state a claim a complaint must contain more than “naked 23 assertions,” “labels and conclusions” or “a formulaic recitation of the elements of a cause of 24 action.” *Twombly*, 550 U.S. at 555-557. In other words, “[t]hreadbare recitals of the elements of 25 a cause of action, supported by mere conclusory statements do not suffice.” *Iqbal*, 556 U.S. at 26 678. 27 Furthermore, a claim upon which the court can grant relief must have facial plausibility. 28 *Twombly*, 550 U.S. at 570. “A claim has facial plausibility when the plaintiff pleads factual 1 content that allows the court to draw the reasonable inference that the defendant is liable for the 2 misconduct alleged.” *Iqbal*, 556 U.S. at 678. When considering whether a complaint states a 3 claim upon which relief can be granted, the court must accept the allegations as true, *Erickson v. 4 Pardus*, 551 U.S. 89 (2007), and construe the complaint in the light most favorable to the 5 plaintiff, see *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974). 6 III. Screening Order 7 A. Allegations of the Complaint. 8 Plaintiff alleges that that he was issued two Rules Violation Reports (“RVRs”) on

9 December 15, 2024. ECF No. 1 at 18-20. Defendant Fuentes, a correctional officer at California 10 State Prison, Solano (“CSP-Solano”), issued RVR Log No. 7535385 for delaying a peace officer 11 and an unidentified staff member issued RVR Log No. 7534877 for manufacturing alcohol. *Id.* 12 Defendant Francisco, a correctional lieutenant at CSP-Solano, found plaintiff guilty of the former 13 RVR, and defendant Davis, also a correctional lieutenant at CSP-Solano, found plaintiff guilty of 14 the latter RVR. *Id.* Plaintiff does not provide any facts concerning the circumstances underlying 15 the RVRs, but claims that, by “stacking” the RVRs defendants violated California Code of 16 Regulations title 15, § 3312(b), and, in turn, violated his due process and Eighth Amendment 17 rights. *Id.* 18 B. Analysis 19 Plaintiff’s complaint must be dismissed, because violations of title 15 of the California 20 Code of Regulations do not create a private right of action. *Nible v. Fink*, 828 Fed. Appx. 463 21 (9th Cir. 2020). The complaint includes no allegations, beyond the asserted violation of title 15, 22 supporting his due process and Eighth Amendment claims. 23 Leave to Amend. The court will grant plaintiff an opportunity to file an amended 24 complaint to attempt to cure the defects identified in this order. 25 Any amended complaint must comply with Federal Rule of Civil Procedure 8(a)’s 26 direction to state

each claim in a short and plain manner. The amended complaint must contain 27 facts – not legal conclusions – supporting each element of the claims alleged. 28 //// 1 Any amended complaint must not join unrelated claims. Federal Rule of Civil Procedure 2 18(a) allows a plaintiff to assert multiple claims when they are against a single defendant. 3 Federal Rule of Civil Procedure 20(a) (2) allows a plaintiff to join multiple defendants to a lawsuit 4 where the right to relief arises out of the same “transaction, occurrence, or series of transactions 5 or occurrences” and “any question of law or fact common to all defendants will arise in the 6 action.” Unrelated claims against different defendants must therefore be pursued in separate 7 lawsuits. See *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007). This rule is intended “not only 8 to prevent the sort of morass [a multiple claim, multiple defendant] suit produce[s], but also to 9 ensure that prisoners pay the required filing fees— for the Prison Litigation Reform Act limits to 10 3 the number of frivolous suits or appeals that any prisoner may file without prepayment of the 11 required fees. 28 U.S.C. § 1915(g).” *Id.* 12 Any amended complaint must identify as a defendant only persons who personally 13 participated in a substantial way in depriving him of a federal constitutional right. *Johnson v. 14 Duffy*, 588 F.2d 740, 743 (9th Cir. 1978) (a person subjects another to the deprivation of a 15 constitutional right if he does an act, participates in another’s act or omits to perform an act he is 16 legally required to do that causes the alleged deprivation). 17 It must also contain a caption including the names of all defendants. Fed. R. Civ. P. 10(a). 18 Plaintiff may not change the nature of this suit by alleging new, unrelated claims in the 19 amended complaint. *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007). 20 Any amended complaint must be written or typed so that it so that it is complete in itself 21 without reference to any earlier filed complaint. E.D. Cal. L.R. 220. This is because an amended 22 complaint supersedes any earlier filed complaint, and once an amended complaint is filed, the 23 earlier filed complaint no longer serves any function in the case. See *Forsyth v. Humana*, 114 24 F.3d 1467, 1474 (9th Cir. 1997) (the “amended complaint supersedes the original, the latter 25 being treated thereafter as non-existent.”) (quoting *Loux v. Rhay*, 375 F.2d 55, 57 (9th Cir. 26 1967)). 27 The court cautions plaintiff that failure to comply with the Federal Rules of Civil 28 Procedure, this court’s Local Rules, or any court order may result in this action being dismissed. 1 See Local Rule 110. 2 IV. Motion for Injunctive Relief 3 Plaintiff has filed a motion seeking an order prohibiting prison officials from transferring 4 him from his current housing. ECF No. 4. Plaintiff notes that no transfer is currently imminent, 5 but that other prisoners have been transferred after filing civil actions. *Id.* 6 Such an order may be issued upon a showing “that immediate and irreparable injury, loss, 7 or damage will result to the movant before the adverse party can be heard in opposition.” Fed. R. 8 Civ. P. 65(b)(1)(A); *Haw. County Green Party v. Clinton*, 980 F. Supp. 1160, 1164 (D. Haw. 9 1997) (“The standards for granting a temporary restraining order and a preliminary injunction are 10 identical.”); cf. *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 11 2001) (observing that an analysis of a preliminary injunction is “substantially identical” to an 12 analysis of a temporary restraining order). The purpose of the order is to

preserve the status quo 13 and to prevent irreparable harm “just so long as is necessary to hold a hearing, and no longer.” 14 *Granny Goose Foods, Inc. v. Brotherhood of Teamsters*, 415 U.S. 423, 439 (1974). 15 To be entitled to preliminary injunctive relief, a party must demonstrate “that he is likely 16 to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary 17 relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” 18 *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1127 (9th Cir. 2009) (citing *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7 (2008)). 20 Here, plaintiff has not yet stated a cognizable federal claim for relief, thus he has not 21 shown he is likely to succeed on the merits. Nor has he shown a likelihood of irreparable harm, 22 as he concedes that no transfer is imminent and merely speculates that a transfer would disrupt his 23 litigation efforts. Plaintiff has additionally made no showings regarding the balance of equities or 24 the public interest. 25 V. Summary of Order 26 Accordingly, it is ORDERED that: 27 1. Plaintiff’s request to proceed in forma pauperis (ECF No. 2) is granted. 28 2. Plaintiff shall pay the statutory filing fee of \$350. All payments shall be collected] in accordance with the notice to the California Department of Corrections and 2 Rehabilitation filed concurrently herewith. 3 3. The complaint is dismissed with leave to file an amended complaint within 30 4 days of service of this order. The amended complaint must bear the docket 5 number assigned to this case and be titled “Amended Complaint.” Failure to 6 comply with this order may result in a recommendation that this action be 7 dismissed for failure to state a claim and/or failure to prosecute. 8 4. The Clerk of Court randomly assign a district judge to this action. 9 It is further RECOMMENDED that plaintiff’s motion for injunctive relief (ECF No. 4) be 10 | DENIED. 11 These findings and recommendations are submitted to the United States District Judge 12 || assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days 13 || after being served with these findings and recommendations, any party may file written 14 || objections with the court and serve a copy on all parties. Such a document should be captioned 15 || “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections 16 || within the specified time may waive the right to appeal the District Court’s order. *Turner v. 17 || Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Yist*, 951 F.2d 1153 (9th Cir. 1991). 19 | Dated: November 10, 2025 Zn tT tiga , -LHAC_ “*4
EDMUND F. BRENNAN
20 UNITED STATES MAGISTRATE JUDGE
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