

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

Whitmann v. Caraway

Whitmann · No. 2:25-CV-1426-TLN-DMC · Decided July 7, 2025

OPINION

1 2 3 4 5 6 7 8 IN THE UNITED STATES DISTRICT COURT 9 FOR THE EASTERN
DISTRICT OF CALIFORNIA 10 11 MARVIN WHITTMAN, No. 2:25-CV-1426-TLN-DMC 12
Plaintiff, 13 v. ORDER 14 CORIE J. CARAWAY, et al., 15 Defendants. 16 17 Plaintiff, who is
proceeding pro se, brings this civil action. Pending before the 18 Court is Plaintiff's original
complaint, ECF No. 1. 19 The Court is required to screen complaints brought by prisoners seeking
relief 20 against a governmental entity or officer or employee of a governmental entity.

See 28 U.S.C. 21 § 1915A(a). This provision also applies if the plaintiff was incarcerated at the
time the action was 22 initiated even if the litigant was subsequently released from custody. See
Olivas v. Nevada ex rel. 23 Dep't of Corr., 856 F.3d 1281, 1282 (9th Cir. 2017).

The Court must dismiss a complaint or 24 portion thereof if it: (1) is frivolous or malicious; (2)
fails to state a claim upon which relief can 25 be granted; or (3) seeks monetary relief from a
defendant who is immune from such relief. See 26 28 U.S.C. § 1915A(b)(1), (2). 27 / / / 28 / / / 1
Moreover, the Federal Rules of Civil Procedure require that complaints contain a 2 "... short and
plain statement of the claim showing that the pleader is entitled to relief." Fed.

R. 3 Civ. P. 8(a)(2). This means that claims must be stated simply, concisely, and directly. See 4
McHenry v. Renne, 84 F.3d 1172, 1177 (9th Cir. 1996) (referring to Fed. R. Civ. P. 8(e)(1)). 5
These rules are satisfied if the complaint gives the defendant fair notice of the plaintiff's claim 6
and the grounds upon which it rests. See Kimes v. Stone, 84 F.3d 1121, 1129 (9th Cir.

1996). 7 Because Plaintiff must allege with at least some degree of particularity overt acts by
specific 8 defendants which support the claims, vague and conclusory allegations fail to satisfy
this 9 standard. Additionally, it is impossible for the Court to conduct the screening required by
law 10 when the allegations are vague and conclusory. 11 12 I. PLAINTIFF'S ALLEGATIONS
13 Plaintiff filed the form complaint on May 21, 2025.

See ECF No. 1. Plaintiff stated 14 the names of four Defendants, Judge Corie J. Caraway, Officer
Cooper, Inspector Love, and 15 Administrator Wolfo. See id. at 2-3. Plaintiff selected the box
indicating the basis for the Court's 16 jurisdiction over this case is federal question and wrote
something below that is illegible. See id. 17 at 3. Plaintiff did not provide any additional facts nor

information in the form complaint but 18 asserted the amount in controversy is “48 million dollars.” Id. at 5.

Plaintiff attached three 19 documents to the complaint, as follows: (1) a photo of a vehicle, which appears to be part of an 20 appeal filed by Plaintiff; (2) a document from Butte County Superior Court indicating that a case 21 file was destroyed pursuant to “GC 68152 & Standing Order BCC 2000-11,” with “what 22 happened to the minutes for this case file?” hand written at the bottom of the page; and (3) a 23 parking violation document from the city of Chico.

Id. at 7-9. There is no other information 24 provided in the complaint. 25 /// 26 /// 27 /// 28 ///
1 II. DISCUSSION 2 As discussed above, Rule 8 requires a complaint contain a short and plain 3 statement of the claim. Plaintiff’s complaint does not provide any information about what 4 Plaintiff’s claim is nor the facts underlying such claim.

As such, the complaint fails to state a 5 claim upon which relief can be granted. The Court will provide Plaintiff the opportunity to amend 6 the complaint to provide the basis of Plaintiff’s claim and the facts underlying the claim in 7 accordance with Rule 8. 8 9 III. CONCLUSION 10 Because it is possible that the deficiencies identified in this order may be cured by 11 amending the complaint, Plaintiff is entitled to leave to amend prior to dismissal of the entire 12 action.

See *Lopez v. Smith*, 203 F.3d 1122, 1126, 1131 (9th Cir. 2000) (en banc). Plaintiff is 13 informed that, as a general rule, an amended complaint supersedes the original complaint. See 14 *Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992).

Thus, following dismissal with leave to 15 amend, all claims alleged in the original complaint which are not alleged in the amended 16 complaint are waived. See *King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1987). Therefore, if 17 Plaintiff amends the complaint, the Court cannot refer to the prior pleading in order to make 18 Plaintiff's amended complaint complete.

See Local Rule 220. An amended complaint must be 19 complete in itself without reference to any prior pleading. See id. 20 If Plaintiff chooses to amend the complaint, Plaintiff must demonstrate how the 21 conditions complained of have resulted in a deprivation of Plaintiff’s constitutional rights. See 22 *Ellis v. Cassidy*, 625 F.2d 227 (9th Cir. 1980).

The complaint must allege in specific terms how 23 each named defendant is involved and must set forth some affirmative link or connection between 24 each defendant’s actions and the claimed deprivation. See *May v. Enomoto*, 633 F.2d 164, 167 25 (9th Cir. 1980); *Johnson v. Duffy*, 588 F.2d 740, 743 (9th Cir. 1978). 26 /// 27 /// 28 ///] Finally, Plaintiff is warned that failure to file an amended complaint within the 2 || time provided in this order may be grounds for dismissal of this action.

See *Ferdik*, 963 F.2d at 3 || 1260-61; see also Local Rule 110. Plaintiff is also warned that a complaint which fails to comply 4 | with Rule 8 may, in the Court's discretion, be dismissed with prejudice pursuant to Rule 41(b). 5 || See *Neviyel v. North Coast Life Ins. Co.*, 651 F.2d 671, 673 (9th Cir. 1981). 6 Accordingly, IT IS HEREBY ORDERED that: 7 1. Plaintiffs original complaint is dismissed with leave to amend; and 8 2.

Plaintiff shall file a first amended complaint within 30 days of the date of 9 || service of this order.
10 11 | Dated: July 3, 2025 Ss..c0_, DENNIS M. COTA 13 UNITED STATES MAGISTRATE
JUDGE 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28