

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

McDonald v. Jones

McDonald · No. 2:24-cv-2545-JDP (P) · Decided May 12, 2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 JEFFREY D. MCDONALD, Case No. 2:24-cv-2545-JDP (P) 12 Plaintiff,
13 v. ORDER; FINDINGS AND RECOMMENDATIONS 14 GENA JONES, et al., 15
Defendants. 16 17 18 Plaintiff, a state inmate proceeding pro se, has filed a first amended
complaint and a 19 motion for preliminary injunction.

For the reasons outlined below, I will dismiss the complaint 20 for failure to state a claim and
recommend that plaintiff’s motion for injunctive relief be denied. 21 I. Screening Order 22 A.
Screening and Pleading Requirements 23 A federal court must screen the complaint of any
claimant seeking permission to proceed 24 in forma pauperis. See 28 U.S.C. § 1915(e).

The court must identify any cognizable claims and 25 dismiss any portion of the complaint that is
frivolous or malicious, fails to state a claim upon 26 which relief may be granted, or seeks
monetary relief from a defendant who is immune from such 27 relief. Id. 28 1 A complaint must
contain a short and plain statement that plaintiff is entitled to relief, 2 Fed.

R. Civ. P. 8(a)(2), and provide “enough facts to state a claim to relief that is plausible on its 3
face,” Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007). The plausibility standard does not 4
require detailed allegations, but legal conclusions do not suffice. See Ashcroft v. Iqbal, 556 U.S. 5
662, 678 (2009). If the allegations “do not permit the court to infer more than the mere 6
possibility of misconduct,” the complaint states no claim.

Id. at 679. The complaint need not 7 identify “a precise legal theory.” Kobold v. Good Samaritan
Reg’l Med. Ctr., 832 F.3d 1024, 8 1038 (9th Cir. 2016). Instead, what plaintiff must state is a
“claim”—a set of “allegations that 9 give rise to an enforceable right to relief.” Nagrampa v.
MailCoups, Inc., 469 F.3d 1257, 1264 10 n.2 (9th Cir. 2006) (en banc) (citations omitted).

11 The court must construe a pro se litigant’s complaint liberally. See Haines v. Kerner, 404 12
U.S. 519, 520 (1972) (per curiam). The court may dismiss a pro se litigant’s complaint “if it 13
appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which 14
would entitle him to relief.” Hayes v. Idaho Corr. Ctr., 849 F.3d 1204, 1208 (9th Cir.

2017). 15 However, ““a liberal interpretation of a civil rights complaint may not supply essential
elements 16 of the claim that were not initially pled.”” Bruns v. Nat’l Credit Union Admin., 122

F.3d 1251, 17 1257 (9th Cir. 1997) (quoting *Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982)). 18 B. Analysis 19 Plaintiff purports to bring this case on his behalf and on behalf of thirty-eight other 20 similarly situated inmates.

See ECF No. 8 at 2-3. The class purports to have identical 21 constitutional claims against defendant sergeant M. Moreno. *Id.* at 11-13. Specifically, it is 22 alleged that defendant has violated these individuals' First Amendment rights by retaliating 23 against them, chilling their ability to file grievances, and filing false Rules Violations Reports. *Id.* 24 at 5-6.

It is also alleged that plaintiff has discriminated against these individuals due to their race, 25 religion, and sexual identity. *Id.* at 7. Finally, it is alleged that defendant has violated these 26 individuals' due process rights by authoring false RVRs that kept certain plaintiffs incarcerated 27 for a longer than necessary. *Id.* at 9. 28 1 The complaint must be dismissed because plaintiff, proceeding *pro se*, can only prosecute 2 claims on his own behalf.

See *Simon v. Hartford Life, Inc.*, 546 F.3d 661, 664 (9th Cir. 2008). 3 Plaintiff cannot bring claims on behalf of other inmates. See *Welch v. Terhune*, 11 F. App'x 747, 4 747 (9th Cir. 2001) (holding that the inmate-plaintiff could not prosecute a class action on behalf 5 of other inmates). 6 Accordingly, plaintiff's complaint is dismissed for failure to state a claim.

I will allow 7 plaintiff a chance to amend his complaint before recommending that this action be dismissed. If 8 plaintiff decides to file an amended complaint, the amended complaint will supersede the current 9 one. See *Lacey v. Maricopa Cnty.*, 693 F.3d 896, 907 n.1 (9th Cir. 2012) (en banc). This means 10 that the amended complaint will need to be complete on its face without reference to the prior 11 pleading.

See E.D. Cal. Local Rule 220. Once an amended complaint is filed, the current one no 12 longer serves any function. Therefore, in an amended complaint, as in the original, plaintiff will 13 need to assert each claim and allege each defendant's involvement in sufficient detail.

The 14 amended complaint should be titled "Second Amended Complaint" and refer to the appropriate 15 case number. If plaintiff does not file an amended complaint, I will recommend that this action 16 be dismissed. 17 II. Injunctive Relief 18 Plaintiff seeks an injunction on his behalf and on behalf of the purported class to remove 19 defendant from working in the "EI-unit" at California Health Care Facility.

ECF No. 9 at 13. In 20 addition to plaintiff's statements, he has included the declarations of several other inmates that 21 describe defendant's allegedly unconstitutional actions. See *id.* at 23, 29, & 31. 22 "A preliminary injunction is 'an extraordinary and drastic remedy, one that should not be 23 granted unless the movant, by a clear showing, carries the burden of persuasion.'" *Lopez v.* 24 *Brewer*, 680 F.3d 1068, 1072 (9th Cir.

2012) (quoting *Mazurek v. Armstrong*, 520 U.S. 968, 972 25 (1997) (per curiam)); see also *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008) 26 (citation omitted) (“[a] preliminary injunction is an extraordinary remedy never awarded as of 27 right”). Nonetheless, “federal courts must not shrink from their obligation to enforce the 28 constitutional rights of all persons, including prisoners,” and must not “allow constitutional 1 violations to continue simply because a remedy would involve intrusion into the realm of prison 2 administration.” *Porretti v. Dzurenda*, 11 F.4th 1037, 1047 (9th Cir.

2021) (citation omitted). 3 A plaintiff seeking a preliminary injunction must show: (1) he is likely to succeed on the 4 merits; (2) he is likely to suffer irreparable harm in the absence of injunctive relief; (3) the 5 balance of equities tips in his favor; and (4) an injunction is in the public interest. *Winter*, 555 6 U.S. at 20.

The “balance of equities” concerns the burdens or hardships to a prisoner complainant 7 compared with the burden on the government defendants if an injunction is ordered. *Id.* The 8 public interest mostly concerns the injunction’s impact on nonparties. *Id.* (citation omitted). 9 Regardless, “[i]t is always in the public interest to prevent the violation of a party’s constitutional 10 rights.” *Id.* (citation omitted).

11 Where a plaintiff seeks a mandatory injunction, rather than a prohibitory injunction, 12 injunctive relief is “subject to a higher standard” and is “permissible when ‘extreme or very 13 serious damage will result’ that is not ‘capable of compensation in damages,’ and the merits of 14 the case are not ‘doubtful.’” *Hernandez v. Sessions*, 872 F.3d 976, 999 (9th Cir.

2017) (quoting 15 *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 879 (9th Cir. 2009)). 16 Further, under the Prison Litigation Reform Act, which applies here, injunctive relief must be 17 narrowly drawn and must be the least intrusive means necessary to correct the harm. 18 U.S.C. 18 § 3626(a)(2); see *Gilmore v. People of the State of Cal.*, 220 F.3d 987, 999 (9th Cir.

2000). 19 Plaintiff has identified the requisite factors set forth in *Winter*, 555 U.S. 7, but, since he 20 has yet to plead a colorable claim for relief, this court lacks the authority to grant him injunctive 21 relief. See *Thomas v. Chu*, No. 3:20-cv-00245-GPC-BGS, 2020 WL 5408944, at *10 (S.D. Cal. 22 Sept. 9, 2020) (noting that, having dismissed the complaint pursuant to 28 U.S.C. § 1915(e)(2) 23 and § 1915A(b), the plaintiff had “necessarily failed to show, for purposes of justifying 24 preliminary injunctive relief, any likelihood of success on the merits of his claims”) (collecting 25 cases).

26 27 28 1 Accordingly, it is ORDERED that: 2 1. Plaintiff's first amended complaint, ECF No. 8, is DISMISSED with leave to amend. 3 2. Within thirty days from service of this order, plaintiff

shall file either (1) an amended 4 | complaint or (2) notice of voluntary dismissal of this action without prejudice. 5 3.

The Clerk of Court is directed to assign a district judge to this action. 6 Further, it is hereby RECOMMENDED that plaintiff's motion for preliminary injunctive 7 | relief, ECF No. 9, be DENIED. 8 These findings and recommendations are submitted to the United States District Judge 9 | assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1).

Within fourteen days of 10 | service of these findings and recommendations, any party may file written objections with the 11 | court and serve a copy on all parties. Any such document should be captioned "Objections to 12 | Magistrate Judge's Findings and Recommendations," and any response shall be served and filed 13 | within fourteen days of service of the objections.

The parties are advised that failure to file 14 | objections within the specified time may waive the right to appeal the District Court's order. See 15 | Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998); Martinez v. Yist, 951 F.2d 1153 (9th Cir. 16 1991). 17 18 IT IS SO ORDERED. 19 (q Sty — Dated: _ May 9, 2025 ow—— 20 JEREMY D. PETERSON UNITED STATES MAGISTRATE JUDGE 22 23 24 25 26 27 28