

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

Sandford v. Sacramento Police Dept., et al.

Sandford v. Sacramento Police Dept., No. 2:25-cv-00106-DJC-CSK PS (E.D. Cal. May 30, 2025) (findings and recommendations) · No. 2:25-cv-00106-DJC-CSK PS · Decided June 2, 2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 JAMES SANDFORD, Case No. 2:25-cv-00106-DJC-CSK PS 12 Plaintiff,
13 v. FINDINGS AND RECOMMENDATIONS 14 SACRAMENTO POLICE DEPT., et al.,
(ECF Nos. 1, 2) 15 Defendants. 16 17 Plaintiff James Sandford is representing himself in this
action and seeks leave to 18 proceed in forma pauperis (“IFP”) pursuant to 28 U.S.C. § 1915.1
(ECF No. 2.)

For the 19 reasons that follow, the Court recommends Plaintiff’s IFP application be denied, and
the 20 Complaint be dismissed without leave to amend. 21 I. MOTION TO PROCEED IN
FORMA PAUPERIS 22 28 U.S.C. § 1915(a) provides that the court may authorize the
commencement, 23 prosecution or defense of any suit without prepayment of fees or security “by
a person 24 who submits an affidavit stating the person is “unable to pay such fees or give security
25 therefor.” This affidavit is to include, among other things, a statement of all assets the 26
person possesses.

Id. The IFP statute does not itself define what constitutes insufficient 27 1 This matter proceeds
before the undersigned pursuant to 28 U.S.C. § 636, Fed. R. 28 Civ. P. 72, and Local Rule 302(c).
1 assets. See Escobedo v. Applebees, 787 F.3d 1226, 1234 (9th Cir. 2015).

In Escobedo, 2 the Ninth Circuit stated that an affidavit in support of an IFP application is
sufficient 3 where it alleges that the affiant cannot pay court costs and still afford the necessities of
4 life. Id. “One need not be absolutely destitute to obtain benefits of the in forma pauperis 5
statute.” Id. Nonetheless, a party seeking IFP status must allege poverty “with some 6
particularity, definiteness and certainty.” Id. According to the United States Department 7 of
Health and Human Services, the current poverty guideline for a household of one (not 8 residing
in Alaska or Hawaii) is \$15,060.00 and \$21,150 for a household of two.

See 9 U.S. Dpt. Health & Human Service (available at <https://aspe.hhs.gov/poverty-guidelines>).
10 Here, Plaintiff’s IFP application appears incomplete. Plaintiff’s IFP shows that his 11 “gross
pay or wages are” \$1,900 but does not indicate how often he receives this 12 amount. See ECF
No. 2. Assuming this is \$1,900 per month, this totals \$22,800 a year. 13 Plaintiff also lists one
dependent.

Id. Plaintiff has likely made the required showing under 28 U.S.C. § 1915(a). See *id.* However, the Court will recommend Plaintiff's IFP application be denied because the action is without merit because it is barred by the statute of limitations and fails to state a claim. "A district court may deny leave to proceed in forma pauperis at the outset if it appears from the face of the proposed complaint that the action is frivolous or without merit." *Minetti v. Port of Seattle*, 152 F.3d 1113, 1115 (9th Cir.

1998) (quoting *Tripati v. First Nat. Bank & Tr.*, 821 F.2d 1368, 1370 (9th Cir. 1987)); see also *McGee v. Dep't of Child Support Servs.*, 584 Fed. App'x 638 (9th Cir. 2014) ("the district court did not abuse its discretion by denying McGee's request to proceed IFP because it appears from the face of the amended complaint that McGee's action is frivolous or without merit"); *Smart v. Heinze*, 347 F.2d 114, 116 (9th Cir. 1965).

(1965) ("It is the duty of the District Court to examine any application for leave to proceed in forma pauperis to determine whether the proposed proceeding has merit and if it appears that the proceeding is without merit, the court is bound to deny a motion seeking leave to proceed in forma pauperis.").

Because it appears from the face of the Complaint that this action is without merit as discussed in more detail below, the Court recommends denying Plaintiff's IFP motion. II. SCREENING REQUIREMENT Pursuant to 28 U.S.C. § 1915(e), the court must screen every in forma pauperis proceeding, and must order dismissal of the case if it is "frivolous or malicious," "fails to state a claim on which relief may be granted," or "seeks monetary relief against a defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2)(B); *Lopez v. Smith*, 203 F.3d 1122, 1126-27 (2000) (en banc).

A claim is legally frivolous when it lacks an arguable basis either in law or in fact. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). In reviewing a complaint under this standard, the court accepts as true the factual allegations contained in the complaint, unless they are clearly baseless or fanciful, and construes those allegations in the light most favorable to the plaintiff.

See *Neitzke*, 490 U.S. at 327; *Von Saher v. Norton Simon Museum of Art at Pasadena*, 592 F.3d 954, 960 (9th Cir. 2010), cert. denied, 564 U.S. 1037 (2011). Pleadings by self-represented litigants are liberally construed. *Hebbe v. Pliler*, 627 F.3d 338, 342 & n.7 (9th Cir. 2010) (liberal construction appropriate even post-*Iqbal*). However, the court need not accept as true conclusory allegations, unreasonable inferences, or unwarranted deductions of fact.

Western Mining Council v. Watt, 643 F.2d 618, 624 (9th Cir. 1981). A formulaic recitation of the elements of a cause of action does not suffice to state a claim. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-57 (2007); *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). To state a claim on which relief may be granted, the plaintiff must allege enough facts "to state a

claim to relief that is plausible on its face.” Twombly, 550 U.S. at 570. “A 23 claim has facial plausibility when the plaintiff pleads factual content that allows the court 24 to draw the reasonable inference that the defendant is liable for the misconduct alleged.” 25 Iqbal, 556 U.S. at 678.

A pro se litigant is entitled to notice of the deficiencies in the 26 complaint and an opportunity to amend unless the complaint’s deficiencies could not be 27 cured by amendment. See Lopez, 203 F.3d at 1130-31; Cahill v. Liberty Mut. Ins. Co., 80 28 F.3d 336, 339 (9th Cir. 1996). 1 III. THE COMPLAINT 2 Plaintiff filed his Complaint against the Sacramento Police Department, Police 3 Officer Brandon Mullock, and the City of Sacramento.

Compl. at 1 (ECF No. 1). Plaintiff’s 4 allegations appear to be specifically against Defendant Mullock only. Plaintiff alleges that 5 in March 2009, Defendant Mullock submitted a police report that contained false 6 information. Id. Plaintiff brings a claim for unlawful search and seizure under the Fourth 7 Amendment because he was allegedly subjected to a full strip search while in custody.

8 Id. Plaintiff also brings a claim for “denial of a fair trial” under the Sixth Amendment. Id. 9 Plaintiff further brings a claim for “excessive bail and punishment” under the Eighth 10 Amendment because he was subjected to excessive bail and forced to complete 11 mandatory drug classes. Id. Plaintiff alleges he continues to face ongoing fines. Id. 12 Finally, Plaintiff brings a claim for violation of “due process and equal protection” under 13 the Fourteenth Amendment, alleging he was treated unfairly which resulted in wrongful 14 incarceration.

Id. at 2. “As a result” of the alleged violations, Plaintiff alleges that he 15 spent two nights in jail and nine months wearing an ankle bracelet, and suffered various 16 monetary and other consequences.² Id. Plaintiff also alleges “[n]egligence by Terra 17 Nova³ and the DMV,” but does not describe any facts related to these entities. Id. 18 Plaintiff has attached a letter from the Office of the District Attorney in Sacramento 19 County dated August 30, 2010, describing how Defendant Mullock made DUI arrests 20 which he documented in written reports, but the written reports differed from the camera 21 footage taken from the police car.

Id. at 3. The August 2010 letter informed Plaintiff that 22 2 The Complaint is confusing and appears to have various inconsistencies, including 23 attaching the August 2010 letter stating that the underlying state court case against Plaintiff was dismissed, but then the Complaint alleges that “[a]s a result,” Plaintiff had to 24 complete DUI classes thirteen years later in November 2023.

Compare Compl. at 3, with id. at 2. 25 3 The Court notes that Plaintiff filed a previous case against “Terranova Law Group.” 26 See Sandford v. Terranova, 2025 WL 417715 (E.D. Cal. Feb. 6, 2025), findings and recommendations adopted by 2025 WL 1248734 (E.D. Cal. Apr. 30, 2025).

The prior 27 case was dismissed without leave to amend. It is unclear whether the minimal allegations against “Terra Nova” in this case are similar or related to the allegations 28 against “Terranova Law Group” in the prior case. 1 the case against him was being dismissed. Id. 2 The Court notes that Plaintiff has filed three other cases in this district court: 3 Sandford v. Terranova, No. 2:24-cv-03343-DAD-CKD PS, 2025 WL 417715, at *2 (E.D.

4 Cal. Feb. 6, 2025), findings and recommendations adopted by 2025 WL 1248734 (Apr. 5 30, 2025) (“Sandford I”) (dismissing without leave to amend claims alleging intentional 6 infliction of emotional distress “caused by Terranova, a court-ordered program, and their 7 insurer,” and noting that plaintiff appeared to have an ongoing state court proceeding 8 also against Terranova); Sandford v. Sacramento PD, No. 2:25-cv-0434-DC-JDP PS, 9 2025 WL 587050, at *1-2 (E.D.

Cal. Feb 24, 2025), findings and recommendations 10 adopted by 2025 WL 1040816 (Apr. 8, 2025) (“Sandford II”) (dismissing without leave to 11 amend claims alleging defendants negligently managed plaintiff’s daughter’s assault 12 case by taking no action after plaintiff filed a report, sent the police a video of the 13 assault, and called and visited the police department); and Sandford v. Terranova, No. 14 2:25-cv-00808-DC-CSK PS (E.D.

Cal.) (pending action alleging negligence and 15 misconduct against multiple judges for actions taken in prior cases, and alleging that a 16 law group’s actions harmed plaintiff’s prior case) (“Sandford IV”). The Court refers to this 17 instant action as “Sandford III.” 18 IV. DISCUSSION 19 A. Statute of Limitations for 42 U.S.C. § 1983 Claims 20 Section 1943 does not contain a specific statute of limitations, so federal courts 21 apply the forum state’s statute of limitations for personal injury actions.

Butler v. Nat. 22 Cmty. Renaissance of Cal., 766 F.3d 1191, 1198 (9th Cir. 2014); Jones v. Blanas, 393 23 F.3d 918, 927 (9th Cir. 2004). Under California law, the statute of limitations for personal 24 injury actions requires that a claim be asserted within two years of its accrual. Butler, 766 25 F.3d at 1198 (citing Cal. Code Civ. Proc. § 335.1); Callins v. Mason, 2022 WL 1720951, 26 at *2 (E.D.

Cal. May 27, 2022). Determined by federal law, a § 1983 action accrues 27 when the defendant’s alleged wrongful act or omission causes damages. Watkins v. 28 Singh, 2014 WL 2930536, at *1 (E.D. Cal. June 27, 2014) (citing Wallace v. Kato, 549 1 U.S. 384, 388 (2007)). A claim accrues when plaintiff knows or has reason to know of 2 the injury. Id. 3 The statute of limitations can be suspended by equitable tolling.

See Jones, 393 4 F.3d at 928. State law governs equitable tolling except to the extent the law is 5 inconsistent with federal law. See Butler, 766 F.3d at 1198. Under California law, 6 equitable tolling suspends or extends a statute of limitations when an injured person has 7 several potential

legal remedies and pursues one reasonably and in good faith. 8 *Honchariw v. Cnty. of Stanislaus*, 530 F. Supp. 3d 939, 949-50 (E.D.

Cal. Mar. 31, 2021) 9 (citing *McDonald v. Antelope Valley Cmty. Coll. Dist.*, 45 Cal.4th 88, 99-100 (2008)). To 10 determine whether equitable tolling may extend a statute of limitations, courts look at 11 whether plaintiff has provided timely notice to the defendant, whether there is lack of 12 prejudice to defendant, and whether plaintiff had acted reasonably and in good faith.

Id. 13 at 950. Failure to comply with the applicable statute of limitations may be grounds for 14 dismissal at the screening stage if it is apparent from the face of the complaint that the 15 plaintiff cannot “prevail, as a matter of law, on the equitable tolling issue.” *Callins*, 2022 16 WL 1720951, at *2 (citing *Cervantes v. City of San Diego*, 5 F.3d 1273, 1276 (9th Cir.

17 1993)). 18 Here, Plaintiff has brought his claim in federal court well after the two-year statute 19 of limitations period for § 1983 claims. Plaintiff states that Defendant Mullock’s alleged 20 misconduct occurred in March 2009. *Compl.* at 1.

The letter from the Sacramento District 21 Attorney discussing Plaintiff’s prior case where Defendant Mullock was the arresting 22 officer is dated August 30, 2010. *Id.* at 3. Even construing the date of accrual as the date 23 Plaintiff received notice that Defendant Mullock may have engaged in misconduct, 24 August 30, 2010 is over fourteen years before Plaintiff filed this Complaint.

Further, 25 Plaintiff has not demonstrated that he is entitled to equitable tolling. Plaintiff has not 26 alleged that he reasonably and in good faith attempted to pursue an alternative legal 27 remedy. See *Honchariw*, 530 F. Supp. 3d at 949-50. Further, Plaintiff has not shown that 28 he provided notice to Defendants about his claim or that Defendants would not be 1 prejudiced by Plaintiff bring his claim over fourteen years after the alleged incident.

2 Accordingly, Plaintiff fails to state a claim against any of the Defendants. 3 B. Failure to Comply with Federal Rule of Civil Procedure 8 4 Plaintiff’s Complaint also does not contain a short and plain statement of a claim 5 as required by Federal Rule of Civil Procedure 8.

In order to give fair notice of the claims 6 and the grounds on which they rest, a plaintiff must allege with at least some degree of 7 particularity overt acts by specific defendants which support the claims. See *Kimes v. 8 Stone*, 84 F.3d 1121, 1129 (9th Cir. 1996). Plaintiff states that Defendant Mullock of the 9 Sacrament Police Department violated his constitutional rights in March 2009, and 10 attached the August 2010 letter from the District Attorney.

Compl. at 1, 3. However, 11 Plaintiff does not allege any specific facts demonstrating how any of the three 12 Defendants specifically violated his constitutional rights. He alleges no details about how 13 or why he was wrongfully incarcerated or how he ended up in custody. See *id.* at 1-2.

In 14 one sentence, Plaintiff states that he endured “severe personal and financial hardships” 15 from “negligence by Terra Nova and the DMV.” Id. at 2. To the extent Plaintiff is 16 attempting to allege a negligence claim against potential Defendants “Terra Nova” and 17 the DMV, Plaintiff has not alleged any specific facts showing how either entity was 18 negligent.

19 The Complaint is subject to dismissal. See *McHenry v. Renne*, 84 F.3d 1172, 20 1178-80 (9th Cir. 1996) (affirming dismissal of complaint where “one cannot determine 21 from the complaint who is being sued, for what relief, and on what theory, with enough 22 detail to guide discovery”). 23 C. Leave to Amend 24 In considering whether leave to amend should be granted, the Court considers 25 that Plaintiff’s Complaint is barred by the statute of limitations and does not comply with 26 the requirements of Federal Rule of Civil Procedure 8.

Based on these deficiencies, it 27 appears granting leave to amend would be futile. The Complaint should therefore be 28 dismissed without leave to amend. See *Lopez*, 203 F.3d at 1130-31; *Cato v. United 1 | States*, 70 F.3d 1103, 1105-06 (9th Cir. 1995).

As described above, the Court also notes 2 | that Plaintiff had two prior cases in this district court that were dismissed without leave to 3 || amend. See *Sandford I*, 2025 WL 417715; *Sandford //*, 2025 WL 587050. V. CONCLUSION 5 Based upon the findings above, it is RECOMMENDED that: 6 1. Plaintiff’s motion to proceed in forma pauperis (ECF No. 2) be DENIED; 7 2.

Plaintiffs Complaint (ECF No. 1) be DISMISSED without leave to amend; 8 and 9 3. The Clerk of the Court be directed to CLOSE this case. 10 These findings and recommendations are submitted to the United States District 11 || Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 12 | 14 days after being served with these findings and recommendations, any party may file 13 | written objections with the Court and serve a copy on all parties.

This document should 14 | be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” Any 15 || reply to the objections shall be served on all parties and filed with the Court within 14 16 | days after service of the objections. Failure to file objections within the specified time 17 || may waive the right to appeal the District Court’s order.

Turner v. Duncan, 158 F.3d 449, 18 | 455 (9th Cir. 1998); *Martinez v. Yist*, 951 F.2d 1153, 1156-57 (9th Cir. 1991). 19 20 | Dated: May 30, 2025 C i s a1 CHI SOO KIM 99 UNITED STATES MAGISTRATE JUDGE 23 24 || 5, sand.0106.25 25 26 27 28