

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Dawson v. Napa County

Case No. 25-cv-01923-JSC (N.D. Cal. July 25, 2025) · No. 25-cv-01923-JSC · Decided July 25, 2025

OPINION

Dawson v. Napa County

PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 AMANDA JEANE DAWSON, Case No. 25-cv-01923-JSC 8 Plaintiff,

ORDER GRANTING MOTIONS TO

9 v. DISMISS

10 NAPA COUNTY, et al., Re: Dkt. Nos. 20, 22, 29 Defendants. 11 12 13 Amanda Dawson brings
this “civil rights action under 42 U.S.C. § 1983 for violations of 14 her Constitutional rights,
including ineffective assistance of counsel, due process violations, 15 wrongful removal of her
child, and unlawful actions [b]y Napa County officials and law 16 enforcement.” (Dkt. No. 1 ¶
1.) 1 Now pending before the Court are three motions to dismiss filed 17 by (1) Napa County
Superior Court (Dkt. No. 20); (2) City of Napa (Dkt. No. 22); and (3) Napa 18 County, Napa
County Child Welfare Services (“C.W.S.”), and Napa County Public Defender’s 19 Office
(Allison Wilensky) (collectively “County Defendants”) (Dkt. No. 29). City of Napa also 20 moves
to strike portions of Plaintiff’s complaint. (Dkt. No. 22.) 21 After carefully considering the
Complaint and written submissions, Court GRANTS all 22 three motions to dismiss. Specifically,
the Court GRANTS (1) Napa County Superior Court’s 23 motion without leave to amend because
the superior court, as an arm of the state, is immune from 24 prosecution; (2) City of Napa’s
motion to dismiss with leave to amend because the allegations of 25 excessive force are
conclusory and insufficient for Monell purposes; (3) County Defendants’ 26 motion to dismiss
with leave to amend because Plaintiff does not plausibly allege ineffective 27 1 assistance of
counsel or due process violations. The Court also DENIES City of Napa’s motion to 2 strike
without prejudice.

3 COMPLAINT ALLEGATIONS

4 A. Complaint Allegations 5 Plaintiff “is a resident of Napa, California.” (Dkt. No. 1 ¶ 6.) “Napa
County Child 6 Welfare Services (C.W.S.) unlawfully removed plaintiff’s child and denied her a
fair hearing 7 without due process.” (Id. ¶ 10.) Additionally, Napa Police Department “engaged in
unlawfull 8 [sic] actions such as fals [sic] arrest, excessive force and helping steel [sic] [her] child

knowing 9 [Child Protective Services] did not have a warrant.” (Id. ¶ 11.) And, on November 2, 2023, 10 “Napa Police Department officers refused to investigate Plaintiff[s] claim concerning her son for 11 the month he was in foster [care] about neglect.” (Id. ¶ 13.) 12 “Plaintiff was assigned a court appointed attorney” who “failed to provide competent legal 13 representation.” (Id. ¶ 12.) Specifically, the attorney failed “to present exculpatory evidence,” 14 “refus[ed] to file necessary motions,” and “ignore[ed] Plaintiff’s request for a better defense.” 15 (Id.) The court “repeatedly denied Plaintiff’s requests [f]or new counsel, violating her Sixth and 16 Fourteenth Amendment rights.” (Id. ¶ 15.) 17 B. Procedural Background 18 Plaintiff filed the present complaint on February 24, 2025, alleging three causes of action.² 19 (Dkt. No. 1.) The first cause of action against Napa County Public Defender’s office and 20 individual attorneys alleges ineffective assistance of counsel in violation of Plaintiff’s Sixth 21 Amendment Rights. (Id. at 5.) In the second cause of action, Plaintiff alleges Napa County and 22 CWS violated Plaintiff’s Fourteenth Amendment Due Process and Equal Protection rights by 23 unlawfully removing her child and denying her a fair hearing. (Id. at 6.) Finally, in the third 24 cause of action, Plaintiff alleges Napa Police Department violated her Fourth Amendment rights 25 2 On February 6, 2025, before Plaintiff initiated this lawsuit, she brought a related action in this 26 District. In that action she requested that the court “remove the criminal prosecution against [her] from the state court system to federal court under 28 U.S.C. § 1455[] and remove the [j]uvenile 27 dependency case against [her] and [her] family.” (25-cv-01288, Dkt. No. 1 at 1.) The court 1 by using excessive force. (Dkt. No. 1 at 6.) While Plaintiff also alleges Defendants violated her 2 Fifth Amendment right, (Id. ¶ 2), there is no corresponding cause of action. Among the relief 3 Plaintiff requests is “[a] declaration that defendants violated Plaintiff’s Constitutional Rights” and 4 “[a]ttorney fees and [c]osts [p]ursuant to 42 U.S.C. § 1988.” (Id. at 6.) The complaint also 5 includes 221 pages of exhibits titled “Additional filings for the 42 USC [sic] § 1983 & the 28 USC 6 [sic] 1455 to Request a stay at the lower state proceedings & Reason unable to serve defendants.” 7 (Dkt. No. 1-1.) 8 On May 2, 2025, Plaintiff moved for “a Temporary Restraining Order (TRO) and 9 Preliminary Injunction to immediately stay all state criminal proceedings, restraining orders, and 10 juvenile dependency actions related to Plaintiff while this federal civil rights case is pending.” 11 (Dkt. No. 15 at 1.) The Court denied Plaintiff’s motion because “[f]ederal courts sitting in equity 12 cannot, absent exceptional circumstances, enjoin pending state criminal proceedings.” (Dkt. No. 13 18 at 1 (citing ReadyLink Healthcare, Inc. v. State Comp. Ins. Fund, 754 F.3d 754, 758 (9th Cir. 14 2014).) 15 Two weeks later, Plaintiff filed a motion requesting appointment of counsel. (Dkt. No. 16 24.) In the order denying Plaintiff’s request, the Court extended Plaintiff’s deadline to respond to 17 the pending motions to dismiss to July 14, 2025. (Id. at 7.) As of July 25, 2025, Plaintiff has not 18 responded to the motions to dismiss.

19 DISCUSSION

20 A. Napa County Superior Court 21 Napa County Superior Court moves to dismiss for lack of subject matter jurisdiction 22 pursuant to Federal Rule of Civil Procedure 12(b)(1), arguing “[t]his

Court lacks subject matter jurisdiction because the Eleventh Amendment bars suits for damages or injunctive relief against a state, an arm of the state, its instrumentalities, or its agencies.” (Dkt. No. 20 at 4.) Napa County Superior Court also moves to dismiss pursuant to Rule 12(b)(6) for failure to state a claim on which relief can be granted. (Id. at 5.) The Eleventh Amendment provides “the Judicial power of the United States shall not be exercised by Citizens of another State, or by Citizens or Subjects of any Foreign State.” U.S. Const. art. XI. The Amendment immunizes states from lawsuits in federal court. See, e.g., *Blatchford v. Native Vill. of Noatak*, 501 U.S. 775, 779 (1991). Eleventh Amendment “immunity extends not just to suits in which the state itself is a named party but also to those against an ‘arm of the [s]tate.’” *Kohn v. State Bar of California*, 87 F.4th 1021, 1026 (9th Cir. 2023) (quoting *Mt. Healthy City Sch. Dist. Bd. of Educ. v. Doyle*, 429 U.S. 274, 280 (1977)). A California Superior Court is an arm of the state. *Munoz v. Superior Ct. of Los Angeles 8 Cnty.*, 91 F.4th 977, 980 (9th Cir. 2024). As the Ninth Circuit explained: The official name of the court is the Superior Court of the State of California; its geographical location within any particular county cannot change the fact that the court derives its power from the State and is ultimately regulated by the State. Judges are appointed by California’s governor, and their salaries are established and paid by the State. *Greater Los Angeles Council on Deafness, Inc. v. Zolin*, 812 F.2d 1103, 1110 (9th Cir. 1987). Therefore, Napa County Superior Court, as an arm of the state, has Eleventh Amendment sovereign immunity. While the *Ex Parte Young* doctrine creates an exception to sovereign immunity in certain cases, that doctrine is inapplicable here. The “*Ex Parte Young* doctrine provides that the Eleventh Amendment does not bar suits for prospective injunctive relief brought against state officers ‘in their official capacities, to enjoin an alleged ongoing violation of federal law.’” *Hason v. Med. Bd. of California*, 279 F.3d 1167, 1171 (9th Cir. 2002). “[B]ecause the Superior Court cannot be sued in an individual capacity,” *Munoz*, 91 F.4th at 980, the doctrine does not create an exception to sovereign immunity in this case. Nor do the other exceptions to Eleventh Amendment sovereign immunity apply here. While “Congress may abrogate [Eleventh Amendment] immunity pursuant to its lawmaking powers conferred by the United States Constitution,” *Steshenko v. Gayrard*, 44 F. Supp. 3d 941, 25 949 (N.D. Cal. 2014) (quoting *Kimel v. Fla. Bd. of Regents*, 528 U.S. 62, 81 (2000)), Plaintiff filed suit pursuant to Section 1983, and “the Supreme Court has held that § 1983 was not intended to abrogate a State’s Eleventh Amendment immunity.” *Dittman v. California*, 191 F.3d 1020, 1026 1 (9th Cir. 1999) (cleaned up). Additionally, while the state may waive its Eleventh Amendment immunity by consenting to suit, *Coll. Sav. Bank v. Fla. Prepaid Postsecondary Educ. Expense Bd.*, 527 U.S. 666, 675 (1999), here Napa County Superior Court has not consented to suit but has instead asserted sovereign immunity as a defense. Although Napa County Superior Court moves to dismiss for lack of subject matter jurisdiction under Rule 12(b)(1), “dismissal based on Eleventh Amendment immunity is not a dismissal for lack of subject matter jurisdiction, but instead rests on an affirmative defense.” *Hill v. Blind Indus. & Servs.*, 179 F.3d 754, 762 (9th

Cir. 1999) (cleaned up). So, while Napa County Superior Court moves to dismiss under Rule 12(b)(1), the Court grants the motion under Rule 12(b)(6). See *Mattingly v. California Dep't of Parks & Recreation*, No. 23-CV-03754-VKD, 2023 WL 7283911, at *2 (N.D. Cal. Nov. 2, 2023) (“[T]he Court evaluates a motion to dismiss based on Eleventh Amendment immunity under Rule 12(b)(6).”) Having concluded Napa County Superior Court has sovereign immunity and therefore the claims against it must be dismissed, the Court need not address its additional arguments about the complaint’s failure to state a claim. B. City of Napa City of Napa, responding on behalf of the Napa Police Department³, moves to dismiss Count Three pursuant to Federal Rule of Civil Procedure 12(b)(6). (Dkt. No. 22 at 10.) City of Napa also moves to strike “from Plaintiff’s Complaint matters that are redundant, immaterial, impertinent, or scandalous” pursuant to Federal Rule of Civil Procedure 12(f). (Id. at 6.) 1. Federal Rule of Civil Procedure 8 Under Federal Rule of Procedure 8(a)(2), a complaint must contain a “short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8. While the

Rule 8 standard does not require “detailed factual allegations,” “it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 3 Though “Plaintiff brought this action against the Napa Police Department (“NPD”), the City 678 (2009) (cleaned up). On a motion to dismiss, the court “must take all of the factual allegations in the complaint as true.” Id. However, this presumption does not apply “to threadbare recitals of a cause of action’s elements, supported by mere conclusory statements.” Id. Put another way, to avoid dismissal, a complaint must contain more than “naked assertion[s],” “labels and conclusions,” or “a formulaic recitation of the elements of a cause of action.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). Plaintiff’s conclusory allegations against City of Napa do not satisfy Rule 8. Count Three alleges “Napa Police used excessive force violating plaintiff’s Fourth Amendment rights.” (Dkt.

No. 1 at 6.) But there are no facts about what Plaintiff was doing when the alleged use of force occurred or what the officers did that constituted excessive force. Elsewhere, the complaint states Napa Police “engaged in unlawfull [sic] actions such as fals [sic] arrest, excessive force and helping steel [sic] my child knowing [Child Protective Services] did not have a warrant.” (Dkt.

No. 1 ¶ 11.) These allegations—that the officers engaged in unlawful actions, committed false arrest, and used excessive force—are “naked assertions devoid of further factual enhancement” and so do not satisfy the requirements of Rule 8. See *Iqbal*, 556 U.S. at 678 (cleaned up). Moreover, the allegations that Napa Police helped steal Plaintiff’s child and “[r]efused to investigate Plaintiff[s] claim concerning her son for the month he was in foster [care] about neglect,” (Dkt. No. 1 ¶¶ 11, 13) are unconnected to a cause of action. While the 221-page exhibit Plaintiff attached to the complaint provides some additional information, it is too voluminous and not tied to her allegations, thus violating Rule 8. 2. Monell Pleading Standard City of

Napa also contends Count Three, brought pursuant to Section 1983, “fails to state 23 any claim for Monell liability against the City under any theory.” (Dkt. No. 22 at 11.) “[A] local 24 government may not be sued under § 1983 for an injury inflicted solely by its employees or 25 agents. Instead, it is when execution of a government’s policy or custom . . . inflicts the injury.” 26 *Monell v. Dep’t of Soc. Servs. of City of New York*, 436 U.S. 658, 694 (1978). So, to bring a 27 Monell claim, the plaintiff “must establish that the local government had a deliberate policy, 1 AE ex rel. *Hernandez v. Cnty. of Tulare*, 666 F.3d 631, 636 (9th Cir. 2012) (cleaned up). In 2 general, “a single instance of unlawful conduct is insufficient to state a claim for municipal 3 liability under [S]ection 1983” though it may be sufficient “where fault and causation were clearly 4 traceable to a municipality’s legislative body or some other authorized decisionmaker.” *Benavidez 5 v. Cnty. of San Diego*, 993 F.3d 1134, 1154 (9th Cir. 2021) (cleaned up). 6 Here, even if Plaintiff’s complaint contained sufficiently detailed factual allegations to 7 allege unlawful arrest or excessive force, Plaintiff fails to plausibly allege a City of Napa policy, 8 custom, or practice was the moving force behind such constitutional violations. She alleges 9 “Defendant Napa Police Department engaged unlawful actions” including false arrest, excessive 10 force, and stealing her child “knowing [Child Protective Services] did not have a warrant.” (Dkt.

11 No. 1 at ¶ 11.) However, she does not allege facts supporting a plausible inference such actions 12 constituted a City of Napa custom or practice. Further, Plaintiff alleges Napa Police refused to 13 investigate her claims concerning her son, (Dkt. No. 1 ¶ 13), but she does not allege facts 14 supporting a plausible inference such failure was traceable to the department or a decisionmaker. 15 See *Benavidez*, 993 F.3d at 1154. 16 Since Plaintiff’s allegations as to City of Napa fail to meet the standard under Rule 8 and 17 fails to state a claim for a Monell violation, City of Napa’s motion to dismiss is granted. 18 3. Motion to Strike 19 City of Napa also moves to strike from “Plaintiff’s Complaint matters that are redundant, 20 immaterial, impertinent, or scandalous.” (Dkt. No. 22. at 6.) Specifically, City of Napa moves to 21 strike from Plaintiff’s prayer for relief her requests for declaratory relief, punitive damages, and 22 attorney’s fees. (Id. at 12-13). Under Federal Rule of Civil Procedure 12(f), “the court may strike 23 from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous 24 matter.” Fed. R. Civ. P. 12(f). Motions to strike pursuant to Federal Rule of Civil Procedure 12(f) 25 are used “to avoid the expenditure of time and money that must arise from litigating spurious 26 issues by dispensing with those issues prior to trial.” *Sidney-Vinstein v. A.H. Robins Co.*, 697 F.2d 27 880, 885 (9th Cir. 1983).

1 Rule 12(f), however, “does not authorize district courts to strike claims for damages on the 2 ground that such claims are precluded as a matter of law.” *Whittlestone, Inc. v. Handi-Craft Co.*, 3 618 F.3d 970, 974 (9th Cir. 2010). This is because if a court read “Rule 12(f) in a manner that 4 allowed litigants to use it as a means to dismiss some or all of a pleading. . . it would be creating 5 redundancies within the Federal Rules of Civil Procedure, because a Rule 12(b)(6) motion (or a 6 motion for summary judgment at a later stage in the proceedings) already serves such a purpose.”

7 Id. As a result, the City’s motion to strike paragraphs “a[]”, “d[]”, and “e[]” must be denied. 8 City of Napa first moves to strike paragraph “a.” in Plaintiff’s prayer for relief, which 9 requests “[a] declaration that defendants violated Plaintiff’s Constitutional Rights.” (Dkt. No. 22 10 at 12.) City of Napa argues this “prayer for declaratory relief is unnecessarily duplicative of her 11 liability and damages claim and is sought to redress alleged past wrongs rather than to 12 prospectively resolve any dispute.” (Dkt. No. 22 at 12.) Though in general, “[a] declaratory 13 judgment merely adjudicating past violations of federal law—as opposed to continuing or future 14 violations of federal law—is not an appropriate exercise of federal jurisdiction,” Defendant’s 15 motion to strike must still be denied. *Bayer v. Neiman Marcus Grp., Inc.*, 861 F.3d 853, 868 (9th

16 Cir. 2017). This is because even if the requested relief is inappropriate, as in *Whittlestone*, the 17 City’s 12(f) motion was likely a mere “attempt to have certain portions of [the] complaint 18 dismissed or to obtain summary judgment against [Plaintiff] as to those portions of the suit— 19 actions better suited for a Rule 12(b)(6) motion or a Rule 56 motion, not a Rule 12(f) motion.” 20 *Whittlestone, Inc.*, 618 F.3d at 974. 21 For precisely the same reasons, the City’s other motions to strike must be denied. City of 22 Napa argues Plaintiff’s for “Punitive damages to deter similar Constitutional violations” in 23 paragraph “d[]” of her prayer for relief should be stricken because “punitive and exemplary 24 damages are not recoverable against public entities like the City as a matter of law.” (Dkt. No. 22 25 at 12-13.) City of Napa is correct that municipalities are “immune from punitive damages under 26 42 U.S.C. § 1983.” *City of Newport v. Fact Concerts, Inc.*, 453 U.S. 247, 271 (1981). However, 27 again as stated in *Whittlestone*, Rule 12(f), “does not authorize district courts to strike claims for 1 at 974-75; see also *Powell v. Wells Fargo Home Mortg.*, No. 14-CV-04248-MEJ, 2017 WL 2 2720182, at *7 (N.D. Cal. June 23, 2017), *aff’d*, 855 F. App’x 382 (9th Cir. 2021) (“courts in the 3 District have denied motions to strike on the ground that damages are precluded as a matter of 4 law”). 5 Finally, City of Napa also moves to strike Plaintiff’s Prayer for Relief paragraph “e[]” 6 requesting “attorney fees and costs pursuant to 42 U.S.C. § 1988.” (Dkt. No. 22 at 13.) In Section 7 1983 actions “the court, in its discretion, may allow the prevailing party . . . a reasonable 8 attorney’s fee as part of the costs.” 42 U.S.C. § 1988. However, “a pro se litigant who is not a 9 lawyer is not entitled to attorney’s fees.” *Kay v. Ehrler*, 499 U.S. 432, 435 (1991). Despite this, 10 the City’s motion to strike must be denied for the same reasons listed above. Even if claims are 11 precluded as a matter of law, they must not be stricken and instead should be raised under Rule 12 12(b)(6) or Rule 56. *Whittlestone*, 618 F.3d at 974. 13 C. County Defendants 14 County Defendants move to dismiss “on the grounds that Plaintiff’s complaint has failed to 15 allege facts sufficient upon which relief can be granted against the County Defendants.” (Dkt. No. 16 29 at 2.) Specifically, County Defendants argue Plaintiff fails to allege sufficient facts to support 17 her claims that County Defendants violated Plaintiff’s (1) Sixth Amendment rights through the 18 ineffective assistance of counsel, (2) Fourteenth Amendment due process right, and (3) Fourteenth 19 Amendment equal protection rights. 20 1.

Sixth Amendment Violation 21 Count One in Plaintiff's complaint alleges County Defendants "failed [sic] to provide 22 effective legal [r]epresentation violating Plaintiff's Sixth Amendment Rights" under 42 U.S.C. § 23 1983. (Dkt. No. 1 ¶¶ 15-17.) County Defendants move to dismiss this count on two grounds: (1) 24 Plaintiff fails to state any facts about how County Defendants allegedly violated her Sixth 25 Amendment rights, and (2) Plaintiff fails to allege County Defendants were acting under the 26 authority of state law as required to bring a Section 1983 claim. The Court agrees on both 27 grounds. 1 Plaintiff's allegations are conclusory. She alleges her court-appointed attorney "failed to 2 provide competent legal representation" and "Defendants failed [sic] to provide effective legal 3 representation, violating [her] Sixth Amendment [r]ights." (Dkt. No. 1 ¶¶ 12, 17.) She elsewhere 4 alleges her attorney failed "to present exculpatory evidence," "refus[ed] to file necessary motions" 5 and "ignore[ed] Plaintiff's request for a better defense" but fails to provide factual support. (Id. ¶ 6 15.) But Plaintiff does not allege the type of proceeding, what specifically her counsel did or did 7 not do, what motions should have been filed, what exculpatory evidence was not presented, and 8 what a "better defense" would have entailed. (Dkt. No. 1 ¶ 12.) Without more factual allegations, 9 Plaintiff's allegations are insufficient to plausibly allege ineffective assistance of counsel. 10 In addition, for a Section 1983 claim, the defendant must have been acting "under color of 11 state law." 42 U.S.C. § 1983. To act under the color of state law means the defendant "exercised 12 power possessed by virtue of state law and made possible only because the wrongdoer is clothed 13 with the authority of state law." *Paeste v. Gov't of Guam*, 798 F.3d 1228, 1238 (9th Cir. 2015). A 14 court appointed public defender does not act under the color of state law when performing 15 advocacy functions. *Polk Cnty. v. Dodson*, 454 U.S. 312, 314-27 (1981). This is because "[o]nce 16 a lawyer has undertaken the representation of an accused, the duties and obligations are the same 17 whether the lawyer is privately retained, appointed, or serving in a legal aid or defender program." 18 *Polk Cnty.*, 454 U.S. at 318. These duties and obligations may require the representative to 19 perform functions inherently adversarial to the government, including "object[ing] to evidence at 20 trial, cross-examin[ing] State's witnesses, and mak[ing] closing arguments." *Id.* at 321 21 Plaintiff alleges that she "was assigned a court appointed attorney in case number 22 JD23000023" who "failed to provide competent legal representation", thus violating her Sixth 23 Amendment Rights. (Dkt. No. 1 ¶ 12.) Even if a court-appointed attorney is not a public 24 defender, a court-appointed attorney in a juvenile proceeding assumes a role adversarial to the 25 state similar to public defenders. And like a public defender, a court-appointed attorney in a 26 juvenile proceeding acts independent of the state. It follows that Plaintiff's court-appointed 27 attorney performing advocacy functions was not acting under the color of state law. As a result, 1 defender's office. See, e.g., *Kirtley v. Rainey*, 326 F.3d 1088, 1091-96 (9th Cir. 2003) (concluding 2 a guardian ad litem also does not act under color of state law, because their actions "simply are not 3 fairly attributable to the state"). 4 2. Fourteenth Amendment Due Process Violation 5 In Count Two of Plaintiff's complaint, she alleges County Defendants violated her 6 Fourteenth Amendment due process

rights. (Dkt. No. 1 at 6.) County Defendants move to 7 dismiss on the basis Plaintiff has not pled sufficient facts to support her claim. (Dkt. No. 29 at 6.) 8 The Court agrees. 9 “[A] [S]ection 1983 claim based upon procedural due process . . . has three elements: (1) a 10 liberty or property interest protected by the Constitution; (2) a deprivation of the interest by the 11 government; (3) lack of process.” *Portman v. Cnty. of Santa Clara*, 995 F.2d 898, 904 (9th Cir. 12 1993). Though Plaintiff fails to specifically allege a liberty interest protected by the constitution, 13 it is established that “[p]arents and children have a well-elaborated constitutional right to live 14 together without governmental interference. That right is an essential liberty interest protected by 15 the Fourteenth Amendment[.]” *Hardwick v. Cnty. of Orange*, 844 F.3d 1112, 1116 (9th Cir. 2017) 16 (cleaned up). Thus, while Plaintiff’s allegations may support an inference Plaintiff has a liberty 17 interest in being with her child, Plaintiff fails to allege facts about how the government deprived 18 her of that liberty interest. Similarly, she alleges “Napa County Child Welfare Services (C.W.S.) 19 unlawfully removed plaintiff’s child and denied her a fair hearing without due process,” she does 20 not allege when the hearing was supposed to occur, what occurred at the hearing, and what process 21 Plaintiff was due that she did not receive. (Dkt. No. 1 ¶ 10.) So, she fails to plausibly allege a 22 procedural due process claim. 23 3. Fourteenth Amendment Equal Protection Clause Violation 24 In Count Two, Plaintiff appears to allege Defendants violated the Equal Protection Clause 25 of the Fourteenth Amendment. County Defendants argue Plaintiff’s Equal Protection Clause 26 claim fails because she has not pled sufficient facts to support her claim. The Court agrees. 27 To successfully state a violation of the Equal Protection Clause under 42 U.S.C. § 1983, 1 the plaintiff based upon membership in a protected class.” *Barren v. Harrington*, 152 F.3d 1193, 2 1194 (9th Cir. 1998). Plaintiff does not allege that she is in a protected class, nor does she allege 3 County Defendants discriminated against her because of her membership in a protected class. As 4 to County Defendants, Plaintiff merely alleges “Defendant Napa County is [r]esponsible for the 5 policies and practices of it’s [sic] public [d]efenders office, Superior Court, and Child Welfare 6 Services” and “Napa County Child Welfare Services (C.W.S.) unlawfully removed plaintiff’s 7 child and denied her a fair hearing without due process.” (Dkt. No. 1 ¶¶ 7, 10.) Because she fails 8 to satisfy the pleading requirements, she fails to state a violation of the Equal Protection Clause 9 under 42 U.S.C. § 1983. 10 4. Monell Pleading Standard 11 County Defendants also move to dismiss Plaintiff’s claims on the grounds that she fails to 12 plead a Monell violation. As stated earlier, to succeed on a Section 1983 claim, a plaintiff “must 13 establish that the local government had a deliberate policy, custom, or practice that was the 14 moving force behind the constitutional violation [she] suffered.” *AE ex rel. Hernandez*, 666 F.3d 15 631 at 636. Plaintiff does not do so in her complaint. Plaintiff pleads no facts as to any prior 16 instances in which County Defendants allegedly failed to provide others with effective legal 17 representation, unlawfully removed children, or denied others a fair hearing without due process. 18 Nor does she allege facts that support a plausible inference County Defendants have a policy of 19 doing so. As a result, Plaintiffs’ claims are insufficient against

County Defendants for the 20 additional reason that she has not satisfied the Monell pleading standard. 21 In sum, Plaintiff does not allege sufficient facts to support a plausible inference County 22 Defendants violated her Sixth and Fourteenth Amendment rights. And even had she alleged a 23 constitutional violation, Plaintiff does not allege sufficient facts supporting a plausible inference 24 County Defendants' policy, custom, or practice was the moving force behind such violation. So, 25 the Court grants County Defendants' motion to dismiss. 26 D. Leave to Amend 27 Under Federal Rule of Civil Procedure 15, "the court should freely give leave [to amend] 1 complaint without representation by a lawyer, the court must "construe the pleadings liberally . . . 2 to afford the petitioner the benefit of any doubt." *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 3 2010) (cleaned up); see also *Rosati v. Igbino*, 791 F.3d 1037, 1039 (9th Cir. 2015) (cleaned up) 4 ("[A] district court should not dismiss a pro se complaint without leave to amend unless it is 5 absolutely clear that the deficiencies of the complaint could not be cured by amendment.") 6 However, "the district court may exercise its discretion to deny leave to amend due to 'undue 7 delay, bad faith or dilatory motive on part of the movant, repeated failure to cure deficiencies by 8 amendments previously allowed, undue prejudice to the opposing party . . . [and] futility of 9 amendment.'" *Carvalho v. Equifax Info. Servs., LLC*, 629 F.3d 876, 892 (9th Cir. 2010) (quoting 10 *Foman v. Davis*, 371 U.S. 178, 182 (1962)). 11 As to Napa County Superior Court, this Court dismisses without leave to amend. Because 12 Napa County Superior Court is immune from suits under the Eleventh Amendment, her complaint 13 cannot be cured regardless of what additional facts are added. See *Rosati*, 791 F.3d at 1039. 14 Thus, leave to amend would be improper. 15 As to City of Napa and County Defendants, the Court dismisses the complaint with leave 16 to amend because it is not absolutely clear the deficiencies of the complaint cannot be cured. If 17 Plaintiff adds facts to support the conclusory statements currently alleged, Plaintiff may be able to 18 state a claim.

19 CONCLUSION

20 For the reasons stated above, the Court grants (1) Napa County Superior Court's motion 21 without leave to amend because the superior court, as an arm of the state, is immune from 22 prosecution; (2) City of Napa's motion to dismiss with leave to amend because the allegations of 23 excessive force are conclusory and insufficient for Monell purposes; and (3) County Defendants' 24 motion to dismiss with leave to amend because Plaintiff does not plausibly allege ineffective 25 assistance of counsel or due process violations. Finally, the Court denies City of Napa's motion to 26 strike without prejudice. 27 Plaintiff's amended complaint, if any, must be filed by August 29, 2025. If Plaintiff does 1 This Order disposes of Docket Nos. 20, 22, and 29. 2 3 IT IS SO ORDERED. 4 Dated: i Salioly 6 VO

7 JACQUELINE SCOTT CORLEY

United States District Judge 8 9 10 11 a 12 13 14 15 16 € = 17 6 Zz 18 19 20 21 22 23 24 25 26 27 28

