

NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT
PRECEDENTIAL AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

JASON LEE HARRIS, *Plaintiff/Appellant*,

v.

PETER ROSALES, *Defendant/Appellee*.

No. 1 CA-CV 15-0339
FILED 5-19-2016

Appeal from the Superior Court in Maricopa County
No. CV2014-007021
The Honorable Katherine M. Cooper, Judge

AFFIRMED

COUNSEL

Jason Lee Harris, Florence
Plaintiff/Appellant

Jardine, Baker, Hickman & Houston, PLLC, Phoenix
By Michael Warzynski
Counsel for Defendant/Appellee

MEMORANDUM DECISION

Judge Randall M. Howe delivered the decision of the Court, in which
Presiding Judge Diane M. Johnsen and Judge Andrew W. Gould joined.

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HOWE, Judge:

¶1 Jason Lee Harris, an inmate in the custody of the Arizona Department of Corrections, challenges the trial court’s dismissal of his complaint under Arizona Rule of Civil Procedure 12(b)(6) and A.R.S. § 12-2602. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

¶2 Harris sued Peter Rosales, who Harris alleged was an “attorney supervisor” in the Maricopa County Public Defender’s Office. Harris alleged that his court-appointed counsel did not pursue motions Harris suggested be filed in his criminal case and that Rosales failed to properly supervise his counsel. Harris did not allege any specific acts or omissions on Rosales’ part.

¶3 Rosales moved to dismiss the complaint under Arizona Rule of Civil Procedure 12(b)(6) for failure to state a claim for which relief could be granted and under A.R.S. § 12-2602 for failure to certify whether expert testimony was needed to establish the standard of care. In response, Harris argued that he was a “class-of-one” under the Fourteenth Amendment of the United States Constitution and referenced the intracorporate conspiracy doctrine—which states that employees of a corporation or agency cannot conspire with one another as a matter of law unless they did so to advance their own personal purposes—as well as several other Constitutional provisions. He stated that he sued Rosales “for misconduct as an attorney whom at one time represented him in an [sic] criminal defense” He did not seek leave to amend his complaint at any time.

¶4 The trial court dismissed Harris’ complaint and entered a final judgment in Rosales’ favor. Harris timely appealed.

DISCUSSION

¶5 Harris contends that Rosales failed to appoint and supervise counsel, violating the “class-of-one equal protections and intercorporat [sic] conspiracy doctrine prohibitions.” He further contends that he was “singled out . . . without regard to his protected interest in the case.” We review the dismissal of a complaint under Arizona Rule of Civil Procedure 12(b)(6) de novo. *Coleman v. City of Mesa*, 230 Ariz. 352, 355 ¶ 7, 284 P.3d 863, 866 (2012). We accept all well-pleaded facts as true and give Harris the benefit of all inferences arising therefrom. *Botma v. Huser*, 202 Ariz. 14, 15 ¶ 2, 39 P.3d 538, 539 (App. 2002). We will affirm the dismissal only if Harris would not have been entitled to relief under any facts in his complaint

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susceptible of proof. *See Coleman*, 230 Ariz. at 356 ¶ 8, 284 P.3d at 867. Because Harris' complaint failed to properly state a claim for which relief could be granted, the trial court did not err in dismissing the complaint.

¶6 Arizona Rule of Civil Procedure 12(b)(6) permits a party to move to dismiss a claim for failure to state a claim for which relief can be granted. Additionally, Arizona Rule of Civil Procedure 8(a)(2) requires a complaint to contain a "short and plain statement of the claim showing that the pleader is entitled to relief." A complaint must give the opposing party fair notice of the nature and basis of the claim. *Cullen v. Auto-Owners Ins. Co.*, 218 Ariz. 417, 419 ¶ 6, 189 P.3d 344, 346 (2008). Legal conclusions without supporting factual allegations do not satisfy this standard. *Id.* at 419 ¶ 7, 189 P.3d at 346. If a pleading does not comply with Rule 8, the opposing party may move to dismiss the complaint under Rule 12(b)(6). *Id.*

¶7 Harris' complaint failed to show that he was entitled to relief and failed to give Rosales fair notice of the nature and basis of the claim. First, none of Harris' filings to the trial court made specific allegations against Rosales explaining what he did or failed to do that triggered either the Fourteenth Amendment or the intracorporate conspiracy doctrine. Second, not only did Harris fail to make specific factual allegations, but his arguments against Rosales were difficult to decipher and did not make clear the nature or basis of the claim. Harris thus failed to show that he was entitled to relief and to fairly notify Rosales of the claims against him. *See Kline v. Kline*, 221 Ariz. 564, 571 ¶ 28, 212 P.3d 902, 909 (App. 2009) (providing that a complaint must contain a plain and concise statement of the action and must give the defendant fair notice of the allegations as a whole). Because Harris' complaint did not comply with Rule 8, dismissal was therefore appropriate under Rule 12(b)(6).¹

¶8 Further, the trial court was not obligated to allow Harris leave to amend his complaint. Not only did Harris fail to seek leave to amend his complaint at any time, nothing in the record or in Harris' responses to Rosales' pleadings indicate that any amendments would not have been futile or would have established facts that may be a subject of relief. *See Yes on Prop 200 v. Napolitano*, 215 Ariz. 458, 471 ¶ 40, 160 P.3d 1216, 1229 (App. 2007) (providing that leave to amend should be denied if the amendments would be futile, but should be granted if the underlying facts

¹ Because the trial court appropriately dismissed Harris' complaint under Rule 12(b)(6), we need not reach Rosales' alternative arguments for dismissal under A.R.S. § 12-2602, 42 U.S.C. § 1983, and qualified immunity.

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or circumstances may be a proper subject of relief). Accordingly, the trial court did not err.

CONCLUSION

¶9 For the foregoing reasons, we affirm.²



Ruth A. Willingham · Clerk of the Court
FILED : ama

² After briefing was complete, Harris filed three motions in this Court requesting a recusal of a judge who took no part in this decision, a “hearing on the merits,” and \$3 million in “monetary, punitive and compensatory damages.” The motion seeking recusal of the judge is denied as moot as that judge has played no role in consideration of the merits of this appeal. The other two motions lack merit and are denied.