

FILED

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOHN ENOS,

Plaintiff-Appellant,

v.

NATHAN TODD YOUNG; et al.,

Defendants-Appellees,

and

COUNTY OF DOUGLAS; et al.,

Defendants.

No. 21-16129

D.C. No.

3:17-cv-00095-MMD-CLB

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Nevada  
Miranda M. Du, Chief District Judge, Presiding

Submitted October 19, 2022\*\*  
San Francisco, California

Before: S.R. THOMAS, M. SMITH, and KOH, Circuit Judges.

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Plaintiff-appellant John Enos appeals from the district court’s dismissal without leave to amend of his procedural due process claim brought under 42 U.S.C. § 1983 against Nathan Young and Michael Gibbons. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review a district court’s decision to grant or deny a motion to dismiss under Rule 12(b)(6) for failure to state a claim de novo. *See Mudpie, Inc. v. Travelers Cas. Ins. Co. of Am.*, 15 F.4th 885, 889 (9th Cir. 2021). We review a denial of leave to amend for abuse of discretion. *See Brown v. Stored Value Cards, Inc.*, 953 F.3d 567, 573 (9th Cir. 2020). We affirm.

Because the parties are familiar with the factual and procedural history of the case, we need not recount it here.

## I

To survive a motion to dismiss, a complaint must “contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 678. Conclusory statements that are unsupported by factual allegations are “not entitled to the assumption of truth.” *Id.* at 679.

In order to establish liability under § 1983, the plaintiff must allege the defendant's "personal participation," because there is "no respondeat superior liability." *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989). A supervisory official is liable under § 1983 if "there exists either (1) his or her personal involvement in the constitutional deprivation, or (2) a sufficient causal connection between the supervisor's wrongful conduct and the constitutional violation." *Rodriguez v. County of Los Angeles*, 891 F.3d 776, 798 (9th Cir. 2018) (citation omitted).

The district court properly dismissed the § 1983 claim against Young and Gibbons, because Enos failed to plead specific conduct that could give rise to a reasonable inference of Young's or Gibbons's liability. The third amended complaint lacks factual allegations of any specific conduct by Young or Gibbons that could establish their liability. Rather, the complaint makes conclusory statements about Young's and Gibbons's alleged roles in the procedural due process violation. Those statements are not entitled to the presumption of truth. *See Iqbal*, 556 U.S. at 679.

Enos also argues that Young and Gibbons are liable for his procedural due process claim because they were the administrative supervisors of the Juvenile Probation Department with statutorily vested hiring and firing authority. However,

statutorily vested authority is insufficient to establish liability in the absence of liability based on an officer's "own individual actions." *Id.* at 676.

## II

The district court did not abuse its discretion in denying leave to further amend the complaint, because Enos has not suggested additional facts that could cure the third amended complaint's deficiencies with respect to Young and Gibbons. Enos argues that additional facts related to Nevada law or additional information obtained during discovery would be sufficient to survive a motion to dismiss. However, neither of those sets of facts would suffice to establish specific conduct that could give rise to a reasonable inference of Young's or Gibbons's liability. Moreover, the district court's discretion is "particularly broad" in this case because the district court has already granted Enos leave to amend twice. *See Nguyen v. Endologix, Inc.*, 962 F.3d 405, 420 (9th Cir. 2020) (noting that a district court's discretion to deny leave to amend is "particularly broad" where the district court has previously granted the plaintiff leave to amend the complaint).

**AFFIRMED.**