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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

HOMER E. CROCKETT JR.,

Plaintiff,

v.

THE STATE OF CALIFORNIA and
HON. ELDEN FOX,

Defendants.

Case No. CV 18-1397 DSF (SS)

**MEMORANDUM AND ORDER
DISMISSING COMPLAINT WITH
LEAVE TO AMEND**

**I.
INTRODUCTION**

On February 20, 2018, plaintiff Homer E. Crockett Jr. ("Plaintiff"), a California resident proceeding pro se, filed a civil rights complaint pursuant to 28 U.S.C. § 1983 ("Complaint"). (Dkt. No. 1). Plaintiff vaguely alleges that the State of California and Superior Court Judge Elden Fox are liable for false imprisonment, malicious prosecution, search and seizurs [sic], and tort claims. (Id. at 1, 8).

1 Under Federal Rule of Civil Procedure 12(b)(6), a trial court
2 may dismiss a claim sua sponte "where the claimant cannot possibly
3 win relief." Omar v. Sea-Land Serv., Inc., 813 F.2d 986, 991 (9th
4 Cir. 1987); see also Baker v. Director, U.S. Parole Comm'n, 916
5 F.2d 725, 726 (D.C. Cir. 1990) (per curiam) (adopting the Ninth
6 Circuit's position in Omar and noting that such a sua sponte
7 dismissal "is practical and fully consistent with plaintiff's
8 rights and the efficient use of judicial resources"). When a
9 plaintiff appears pro se in a civil rights case, the court must
10 construe the pleadings liberally and afford the plaintiff the
11 benefit of any doubt. Karim-Panahi v. Los Angeles Police Dep't.,
12 839 F.2d 621, 623 (9th Cir. 1988). In giving liberal interpretation
13 to a pro se complaint, the court may not, however, supply essential
14 elements of a claim that were not initially pled. Ivey v. Bd. of
15 Regents of Univ. of Alaska, 673 F.2d 266, 268 (9th Cir. 1982). A
16 court must give a pro se litigant leave to amend the complaint
17 unless it is "absolutely clear that the deficiencies of the
18 complaint could not be cured by amendment." Karim-Panahi, 839 F.2d
19 at 623 (citation omitted). For the reasons stated below, the
20 Complaint is DISMISSED with leave to amend.¹

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¹ A magistrate judge may dismiss a complaint with leave to amend without the approval of a district judge. See McKeever v. Block, 932 F.2d 795, 798 (9th Cir. 1991).

1 II.

2 ALLEGATIONS OF THE COMPLAINT

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4 Plaintiff's Complaint is largely unintelligible. He vaguely
5 alleges that he was subject to "unjustified dention [sic]" and
6 "negligence" by Defendants. (Compl. at 2). He further alleges
7 that Defendants subjected him to "false imprisonment" by admitting
8 affidavits of evidence and testimony of witnesses before a court
9 of law. (Id. at 3). Plaintiff also alleges that Defendants are
10 liable for various California unnamed employees committing perjury
11 and corrupt acts. (Id. at 4-5, 7). Finally, Plaintiff alleges
12 that the State of California issued a warrant that resulted in an
13 unreasonable search and seizure. (Id. at 6). Plaintiff seeks \$24
14 million in damages and "interest at the maximum rate." (Id. at 8-
15 9).

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17 III.

18 DISCUSSION

19
20 **A. The Complaint Fails To State A Claim Against Either Defendant**

21
22 In order to state a claim, the complaint need not contain
23 detailed factual allegations, but it must, at a minimum, plead
24 "enough facts to state a claim to relief that is plausible on its
25 face." Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007). "A
26 claim has facial plausibility when the plaintiff pleads factual
27 content that allows the court to draw the reasonable inference that
28 the defendant is liable for the misconduct alleged." Ashcroft v.

1 Iqbal, 556 U.S. 662, 678 (2009). A pleading that offers "labels
2 and conclusions" or "a formulaic recitation of the elements of a
3 cause of action will not do." Twombly, 550 U.S. at 555.
4 "Threadbare recitals of the elements of a cause of action,
5 supported by mere conclusory statements, do not suffice." Iqbal,
6 556 U.S. at 678.

7
8 Here, other than naming the State of California and Judge Fox
9 as Defendants, the Complaint does not allege sufficient facts that
10 tie either Defendant to any of the four alleged claims. (Compl.
11 2-7). As a result, Plaintiff fails to state a claim against either
12 the State of California or Judge Fox, and Plaintiff's claims
13 against the State of California and Judge Fox must be dismissed,
14 with leave to amend.

15
16 **B. The State of California Is An Improper Defendant**

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18 The Eleventh Amendment bars actions in federal court for money
19 damages against a state or one of its agencies or departments. See
20 Pennhurst State Sch. & Hosp. v. Halderman, 465 U.S. 8, 100 (1984);
21 see also Pittman v. Oregon Employment Dep't, 509 F.3d 1065, 1071
22 (9th Cir. 2007) ("[A]n unconsenting State is immune from suits
23 brought in federal courts by her own citizens as well as by citizens
24 of another State.") (citation omitted). "The State of California
25 has not waived its Eleventh Amendment immunity with respect to
26 claims brought under § 1983 in federal court, and the Supreme Court
27 has held that '§ 1983 was not intended to abrogate a State's
28 Eleventh Amendment immunity.'" Dittman v. California, 191 F.3d

1 1020, 1025-26 (9th Cir. 1999) (quoting Kentucky v. Graham, 473 U.S.
2 159, 169 n.17 (1985)). Therefore, because the Eleventh Amendment
3 precludes Plaintiff's claims for monetary damages against the State
4 of California, the State of California is an improper defendant.
5 Accordingly, the claims against the State of California must be
6 dismissed.

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8 **C. Defendant Fox Is Entitled To Absolute Judicial Immunity**

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10 "Judges are immune from damage actions for judicial acts taken
11 within the jurisdiction of their courts." Ashelman v. Pope, 793
12 F.2d 1072, 1075 (9th Cir. 1986) (en banc); see Pangelinan v.
13 Wiseman, 370 F. App'x 818, 819 (9th Cir. 2010) ("The district court
14 properly concluded that the judges were immune to the extent they
15 were sued for claims arising from their decisions in [plaintiff's]
16 lawsuits."). Indeed, under the doctrine of judicial immunity,
17 "[j]udges and those performing judge-like functions are absolutely
18 immune from damage liability for acts performed in their official
19 capacities." Ashelman, 793 F.2d at 1075. Judicial immunity is an
20 "immunity from suit, not just from ultimate assessment of damages,"
21 and applies "even when the judge is accused of acting maliciously
22 and corruptly." Mireles v. Waco, 502 U.S. 9, 11 (citation omitted);
23 see also In re Castillo, 297 F.3d 940, 947 (9th Cir. 2002) (absolute
24 judicial immunity applies even when it is alleged that "the action
25 was driven by malicious or corrupt motives" or was "flawed by the
26 commission of grave procedural errors") (citation omitted).

1 Here, the Complaint alleges that Judge Fox, in his capacity
2 as a state court judge, is liable for false imprisonment, malicious
3 prosecution, search and seizure, and other torts. Accordingly,
4 because the allegations relate to Judge Fox performing a judicial
5 function, he is unquestionably entitled to absolute judicial
6 immunity. Therefore, the claims against Judge Fox, as currently
7 alleged, must be dismissed on immunity grounds.

8
9 **D. The Complaint Violates Federal Rule Of Civil Procedure 8**

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11 Federal Rule of Civil Procedure 8 requires that a complaint
12 contain "a short and plain statement of the claim showing that the
13 pleader is entitled to relief in order to give the defendant fair
14 notice of what the claim is and the grounds upon which it rests."
15 Twombly, 550 U.S. at 555 (citation and alteration omitted). Each
16 claim must be simple, concise, and direct. Fed. R. Civ. P. 8(d)(1).
17 Rule 8 can be violated when "too much" or "too little" is said.
18 Knapp v. Hogan, 738 F.3d 1106, 1109 (9th Cir. 2013).

19
20 Here, the Complaint does not comply with Rule 8. Plaintiff
21 does not clearly and concisely identify the nature of each of his
22 legal claims, the specific facts giving rise to each claim, and
23 the specific conduct of each Defendant or Defendants against whom
24 each claim is brought. The Complaint is not a short and plain
25 statement of Plaintiff's claims. Rather, it consists of rambling,
26 repetitious and largely incoherent statements. Consequently, the
27 Complaint fails to provide a simple, concise and direct statement
28 of each violation alleged. Thus, the Complaint fails to provide

1 Defendants with fair notice of the claims in a short, clear and
2 concise statement. See Twombly, 550 U.S. at 555. Accordingly,
3 the Complaint is dismissed, with leave to amend.

4
5 The Court has addressed the obvious deficiencies of the
6 Complaint. The Court notes that there may be additional
7 deficiencies, i.e., it appears that some or all of the claims may
8 be barred by the applicable statute of limitations or by the
9 doctrines of res judicata or collateral estoppel. The Court
10 advises Plaintiff that he should attempt to correct all noted
11 deficiencies if he chooses to file a First Amended Complaint.

12 13 IV.

14 CONCLUSION

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16 For the reasons stated above, the Complaint is dismissed with
17 leave to amend. If Plaintiff still wishes to pursue this action,
18 he is granted **thirty (30) days** from the date of this Memorandum
19 and Order within which to file a First Amended Complaint. In any
20 amended complaint, the Plaintiff shall cure the defects described
21 above. **Plaintiff shall not include new defendants or new**
22 **allegations that are not reasonably related to the claims asserted**
23 **in the original complaint.** The First Amended Complaint, if any,
24 shall be complete in itself and shall bear both the designation
25 "First Amended Complaint" and the case number assigned to this
26 action. It shall not refer in any manner to any previously filed
27 complaint in this matter. **PLAINTIFF IS SPECIFICALLY ADVISED TO**
28 **OMIT ANY CLAIMS THAT ARE BARRED BY A LACK OF JURISDICTION OR ON**

1 **IMMUNITY GROUNDS, unless an exception exists or those defects can**
2 **be corrected.**

3
4 In any amended complaint, Plaintiff should confine his
5 allegations to those operative facts supporting each of his claims.
6 Plaintiff is advised that pursuant to Federal Rule of Civil
7 Procedure 8(a), all that is required is a "short and plain statement
8 of the claim showing that the pleader is entitled to relief."

9 **Plaintiff is strongly encouraged to utilize the standard civil**
10 **rights complaint form when filing any amended complaint, a copy of**
11 **which is attached.** In any amended complaint, Plaintiff should

12 identify the nature of each separate legal claim and make clear
13 what specific factual allegations support each of her separate
14 claims. Plaintiff is strongly encouraged to keep his statements
15 concise and to omit irrelevant details. **It is not necessary for**
16 **Plaintiff to cite case law, include legal argument, or attach**
17 **exhibits at this stage of the litigation.** Plaintiff is also advised
18 to omit any claims for which he lacks a sufficient factual basis.

19
20 Plaintiff is explicitly cautioned that failure to timely file
21 a First Amended Complaint or failure to correct the deficiencies
22 described above, will result in a recommendation that this action
23 be dismissed with prejudice for failure to prosecute and obey court
24 orders pursuant to Federal Rule of Civil Procedure 41(b).
25 **Plaintiff is further advised that if he no longer wishes to pursue**
26 **this action, he may voluntarily dismiss it by filing a Notice of**
27 **Dismissal in accordance with Federal Rule of Civil Procedure**

