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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

BYRON MARTIN,)	No. CV 16-01219-JFW (AS)
)	
Plaintiff,)	ORDER DISMISSING COMPLAINT
v.)	
)	WITH LEAVE TO AMEND
GARDEN GROVE POLICE DEPARTMENT,)	
)	
Defendants.)	
)	

I.
INTRODUCTION

On July 1, 2016, Plaintiff Byron Martin ("Plaintiff"), a prisoner at Salinas Valley State Prison, in Soledad, California, filed a Complaint pursuant to 42 U.S.C. § 1983. (Docket Entry No. 1). The Complaint names Garden Grove Police Department as the sole Defendant, alleging one claim for unlawful arrest and incarceration. (Compl. 1). Plaintiff seeks \$100,000 in monetary relief. (Id.).

1 The Court has screened the Complaint as prescribed by 28 U.S.C.
2 § 1915A and 42 U.S.C. § 1997e. For reasons discussed below, the
3 Court DISMISSES the COMPLAINT WITH LEAVE TO AMEND.¹
4

5 **II.**

6 **ALLEGATIONS OF THE COMPLAINT**

7
8 Plaintiff alleges that he was "unlawfully arrested" on June 15,
9 2013, by the Garden Grove Police Department and subsequently
10 incarcerated for approximately three weeks. (Compl. 1). Plaintiff
11 attributes missing his father's funeral, which occurred the day after
12 his arrest, to his "unlawful incarceration." (Id.).
13

14 **III.**

15 **STANDARD OF REVIEW**

16
17 Congress mandates that district courts initially screen civil
18 complaints filed by prisoners seeking redress from a governmental
19 entity or employee. 28 U.S.C. § 1915A. A court may dismiss such a
20 complaint, or any portion thereof, before service of process, if the
21 court concludes that the complaint (1) is frivolous or malicious;
22 (2) fails to state a claim upon which relief may be granted; or
23 (3) seeks monetary relief from a defendant who is immune from such
24 relief. 28 U.S.C. § 1915A(b)(1)-(2); see also Lopez v. Smith,
25 203 F.3d 1122, 1126-27 & n.7 (9th Cir. 2000) (en banc).
26

27 ¹ Magistrate Judges may dismiss a complaint with leave to
28 amend without approval from the district judge. McKeever v. Block,
932 F.2d 795, 798 (9th Cir. 1991).

1
2 Dismissal for failure to state a claim is appropriate if a
3 complaint fails to proffer "enough facts to state a claim for relief
4 that is plausible on its face." Bell Atl. Corp. v. Twombly,
5 550 U.S. 544, 570 (2007); Ashcroft v. Iqbal, 556 U.S. 662, 678
6 (2009). "A claim has facial plausibility when the plaintiff pleads
7 factual content that allows the court to draw the reasonable
8 inference that the defendant is liable for the misconduct alleged."
9 Iqbal, 556 U.S. at 678; see also Hartmann v. Cal. Dep't of Corr.
10 & Rehab., 707 F.3d 1114, 1122 (9th Cir. 2013). A plaintiff must
11 provide more than "labels and conclusions" or a "formulaic recitation
12 of the elements" of his claim. Twombly, 550 U.S. at 555; Iqbal,
13 556 U.S. at 678. However, "[s]pecific facts are not necessary; the
14 [complaint] need only 'give the defendant fair notice of what the
15 . . . claim is and the grounds upon which it rests.'" Erickson v.
16 Pardus, 551 U.S. 89, 93 (2007) (per curiam) (quoting Twombly, 550
17 U.S. at 555).

18
19 In considering whether to dismiss a complaint, a court is
20 generally limited to the pleadings and must construe all "factual
21 allegations set forth in the complaint . . . as true and . . . in the
22 light most favorable" to the plaintiff. Lee v. City of L.A.,
23 250 F.3d 668, 679 (9th Cir. 2001). Moreover, pro se pleadings are
24 "to be liberally construed" and held to a less stringent standard
25 than those drafted by a lawyer. Erickson, 551 U.S. at 94; see also
26 Hebbe v. Pliler, 627 F.3d 338, 342 (9th Cir. 2010) ("Iqbal
27 incorporated the Twombly pleading standard and Twombly did not alter
28 courts' treatment of pro se filings; accordingly, we continue to

1 construe pro se filings liberally when evaluating them under
2 Iqbal."). Nevertheless, dismissal for failure to state a claim can
3 be warranted based on either the lack of a cognizable legal theory or
4 the absence of factual support for a cognizable legal theory.
5 Mendiondo v. Centinela Hosp. Med. Ctr., 521 F.3d 1097, 1104 (9th Cir.
6 2008). A complaint may also be dismissed for failure to state a
7 claim if it discloses some fact or complete defense that will
8 necessarily defeat the claim. Franklin v. Murphy, 745 F.2d 1221,
9 1228-29 (9th Cir. 1984).

10
11 **IV.**

12 **DISCUSSION**

13
14 The Complaint contains deficiencies warranting dismissal,
15 although leave to amend will be granted. See 28 U.S.C. §
16 1915A(b)(1).

17
18 **A. The Complaint Fails to State a Cognizable Legal Theory and**
19 **Associated Facts Upon which Relief Can be Granted**

20
21 As currently pled, these allegations do not provide sufficient
22 detail to plead a § 1983 claim in accordance with Federal Rule of
23 Civil Procedure 8. Rule 8 provides in relevant part: "A pleading
24 that states a claim for relief must contain: . . . a short and plain
25 statement of the claim showing that the pleader is entitled to
26 relief." See Fed. R. Civ. P. 8. Rule 8 requires a showing, rather
27 than a blanket assertion, of entitlement to relief; without some
28 factual allegation in the complaint it is hard to see how a claimant

1 could satisfy the requirement of providing not only fair notice of
2 the nature of the claim, but also grounds on which the claim rests.
3 Fed. R. Civ. P. 8(a)(2); Twombly, 550 U.S. 544 at 555.

4
5 Here, Plaintiff alleges that he was unlawfully arrested and
6 incarcerated, but Plaintiff does not give any additional facts or a
7 cognizable legal theory to establish that the arrest was unlawful.
8 Consequently, the Court is unable to determine whether the arrest
9 lacked justification to surmise that Plaintiff was falsely arrested.
10 See Lacey v. Maricopa Cty., 693 F.3d 896, 918 (9th Cir. 2012)
11 (quoting Dubner v. City & Cty. of San Francisco, 266 F.3d 959, 964
12 (9th Cir. 2001)) ("A claim for unlawful arrest is cognizable under
13 § 1983 as a violation of the Fourth Amendment, provided the arrest
14 was without probable cause or other justification."). In order for
15 Plaintiff to satisfy Rule 8, he must state a cognizable legal theory
16 for an unlawful arrest and then state applicable facts, demonstrating
17 that there are plausible grounds for relief. Iqbal, 556 U.S. at 678
18 (2009).

19
20 **B. This Suit May Be in Conflict with Habeas Corpus Jurisdiction**

21
22 Where a plaintiff alleges pursuant to § 1983 that there was no
23 probable cause for his arrest, it necessarily implies that the
24 underlying conviction is invalid, but a plaintiff cannot obtain §
25 1983 relief until the underlying conviction is overturned on appeal,
26 by a habeas petition, or through a similar proceeding. See Heck v.
27 Humphrey, 512 U.S. 477, 483-87 (1994); Cabrera v. City of Huntington
28 Park, 159 F.3d 374, 380 (9th Cir. 1998) (per curiam) (concluding that

1 § 1983 claims for false arrest and false imprisonment were not
2 cognizable because a finding that there was no probable cause to
3 arrest plaintiff for disturbing the peace would necessarily imply
4 that plaintiff's conviction for disturbing the peace was invalid).
5 Accordingly, a plaintiff must first invalidate the related conviction
6 regardless of the form of remedy sought, may that be monetary damages
7 or injunctive relief, before a § 1983 suit may be brought. See
8 Edwards v. Balisok, 520 U.S. 641, 646-48 (1997). Thus, if a
9 plaintiff pleads what is essentially a Habeas Corpus claim under §
10 1983, the Court should dismiss the claim without prejudice. See
11 Balisok, 520 U.S. at 649; Heck v. Humprhey, 512 U.S. 477, 487 (1994).

12
13 Here, Plaintiff alleges that he was unlawfully arrested and
14 incarcerated, but he does not state the legal theory upon which his
15 unlawful arrest is based. (Compl. 1). It is unclear whether
16 Plaintiff filed suit because officers acted with excessive force
17 during his arrest or officers did not have probable cause to arrest
18 Plaintiff in the first place. Both legal theories are Constitutional
19 violations under the Fourth Amendment. Devenpeck v. Alford, 543 U.S.
20 146, 152 (2004) ("[A] warrantless arrest by a law officer [sic] is
21 reasonable under the Fourth Amendment where there is probable cause
22 to believe that a criminal offense has been or is being committed.");
23 Graham v. Connor, 490 U.S. 386 (1989) (claim that law enforcement
24 officials have used excessive force in course of arrest of a person
25 is properly analyzed under Fourth Amendment's objective
26 reasonableness standard). If Plaintiff is alleging that he was
27 arrested without probable cause, Plaintiff is advised that he must
28 first invalidate his related conviction through a habeas corpus

1 petition or allege facts in good faith, stating he was not convicted
2 of a crime related to the subject arrest. See Wallace v. Kato, 549
3 U.S. 384, 393 (2007) (Heck is only triggered once a person has been
4 convicted). If Plaintiff is successful in invalidating his conviction
5 or was not convicted of a crime related to this claim, he may then
6 seek monetary damages through a § 1983 civil rights action.

7
8 **V.**

9 **ORDER**

10
11 For the reasons discussed above, the Court DISMISSES the
12 Complaint WITH LEAVE TO AMEND. If Plaintiff still wishes to pursue
13 this action, he shall file a First Amended Complaint **no later than 30**
14 **days from the date of this Order. The First Amended Complaint must**
15 **cure the pleading defects discussed above and shall be complete in**
16 **itself without reference to the original Complaint. See L.R. 15-2**
17 **("Every amended pleading filed as a matter of right or allowed by**
18 **order of the Court shall be complete including exhibits. The amended**
19 **pleading shall not refer to the prior, superseding pleading.").** This
20 means that Plaintiff must allege and plead any viable claims in the
21 original Complaint again.

22
23 In any amended complaint, Plaintiff should identify the nature
24 of each separate legal claim and confine his allegations to those
25 operative facts supporting each of his claims. Pursuant to Federal
26 Rule of Civil Procedure 8(a), all that is required is a "short and
27 plain statement of the claim showing that the pleader is entitled to
28 relief." However, Plaintiff is advised that the allegations in the

1 First Amended Complaint should be consistent with the authorities
2 discussed above. In addition, the First Amended Complaint may not
3 include new Defendants or claims not reasonably related to the
4 allegations in the previously filed complaints. **Plaintiff is**
5 **strongly encouraged to once again utilize the standard civil rights**
6 **complaint form when filing any amended complaint, a copy of which is**
7 **attached.**

8
9 **Plaintiff is explicitly cautioned that failure to timely file a**
10 **First Amended Complaint, or failure to correct the deficiencies**
11 **described above, may result in a recommendation that this action, or**
12 **portions thereof, be dismissed with prejudice for failure to**
13 **prosecute and/or failure to comply with court orders. See Fed. R.**
14 **Civ. P. 41(b).** Plaintiff is further advised that if he no longer
15 wishes to pursue this action in its entirety or with respect to
16 particular Defendants or claims, he may voluntarily dismiss all or
17 any part of this action by filing a Notice of Dismissal in accordance
18 with Federal Rule of Civil Procedure 41(a)(1). A form Notice of
19 Dismissal is attached for Plaintiff's convenience.

20
21 IT IS SO ORDERED.

22
23 Dated: September 16, 2016

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25 _____/s/
26 ALKA SAGAR
27 United States Magistrate Judge
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