



1 A complaint must contain “a short and plain statement of the claim showing that the pleader is  
2 entitled to relief. . . .” Fed. R. Civ. P. 8(a)(2). Detailed factual allegations are not required, but  
3 “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements,  
4 do not suffice.” Ashcroft v. Iqbal, 556 U.S. 662, 678, 129 S.Ct. 1937, 1949 (2009) (citing Bell  
5 Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 127 S.Ct. 1955, 1964-65 (2007)). While a plaintiff’s  
6 allegations are taken as true, courts “are not required to indulge unwarranted inferences.” Doe I v.  
7 Wal-Mart Stores, Inc., 572 F.3d 677, 681 (9th Cir. 2009) (internal quotation marks and citation  
8 omitted).

9 To survive screening, Plaintiff’s claims must be facially plausible, which requires sufficient  
10 factual detail to allow the Court to reasonably infer that each named defendant is liable for the  
11 misconduct alleged. Iqbal, 556 U.S. at 678, 129 S.Ct. at 1949 (quotation marks omitted); Moss v.  
12 United States Secret Service, 572 F.3d 962, 969 (9th Cir. 2009). The sheer possibility that a defendant  
13 acted unlawfully is not sufficient, and mere consistency with liability falls short of satisfying the  
14 plausibility standard. Iqbal, 556 U.S. at 678, 129 S.Ct. at 1949 (quotation marks omitted); Moss, 572  
15 F.3d at 969.

## 16 **II. Plaintiff’s Allegations**

17 Plaintiff is currently housed at the California Correctional Institution in Tehachapi, California.  
18 Plaintiff alleges as follows:

19 In 2009 I plead guilty to involuntary [vehicular] manslaughter and received a 6 year  
20 prison term. Upon reception I was given a release date of or around 10-16-2013 for the  
21 fact that the Department of Correction of California failed to calculate my previous  
22 earned credits of 805 days. I was held in custody for 1 year and 2 months past my  
original release date of or around 02-26-2012 iligally [sic].

23 (ECF No. 1, p. 3.) Plaintiff requests monetary damages for false imprisonment, lost wages and  
24 pain and suffering.

## 25 **III. Discussion**

### 26 **A. Eleventh Amendment Immunity**

27 Plaintiff names the California Department of Corrections and Rehabilitation (“CDCR”) as the  
28 sole defendant in this action. The Eleventh Amendment “erects a general bar against federal lawsuits

1 brought against the state.” Wolfson v. Brammer, 616 F.3d 1045, 1065-66 (9th Cir. 2010) (quoting  
2 Porter v. Jones, 319 F.3d 483, 491 (9th Cir. 2003)). CDCR, as a state agency, has absolute immunity  
3 from suit and it is dismissed from this action, with prejudice. E.g., Pennhurst State School & Hosp. v.  
4 Halderman, 465 U.S. 89, 100, 104 S.Ct. 900 (1984); Buckwalter v. Nevada Bd. of Medical Examiners,  
5 678 F.3d 737, 740 n.1 (9th Cir. 2012).

#### 6 **B. False Imprisonment Claim**

7 Plaintiff alleges that he was held past his release date. However, state prisoners cannot  
8 challenge the fact or duration of their confinement in a section 1983 action and their sole remedy lies  
9 in habeas corpus relief. Wilkinson v. Dotson, 544 U.S. 74, 78, 125 S.Ct. 1242 (2005). Often referred  
10 to as the favorable termination rule, this exception to section 1983’s otherwise broad scope applies  
11 whenever state prisoners “seek to invalidate the duration of their confinement - either *directly* through  
12 an injunction compelling speedier release or *indirectly* through a judicial determination that  
13 necessarily implies the unlawfulness of the State’s custody.” Wilkinson, 544 U.S. at 81. Thus, “a  
14 state prisoner’s [section] 1983 action is barred (absent prior invalidation) - no matter the relief sought  
15 (damages or equitable relief), no matter the target of the prisoner’s suit (state conduct leading to  
16 conviction or internal prison proceedings) - *if* success in that action would necessarily demonstrate the  
17 invalidity of confinement or its duration.” Id. at 81-2.

18 As Plaintiff is complaining about the duration of his confinement, his section 1983 claim is  
19 barred until such time as he obtains invalidation of his sentence. There is no indication from  
20 Plaintiff’s complaint that he has obtained prior invalidation. Therefore, Plaintiff’s claim is dismissed,  
21 without prejudice. Heck v. Humphrey, 512 U.S. 477, 489, 114 S.Ct. 2364 (1994) (until and unless  
22 favorable termination of the conviction or sentence occurs, no cause of action under section 1983  
23 exists).

#### 24 **IV. Conclusion and Order**

25 Plaintiff’s complaint fails to state any claims upon which relief may be granted under section  
26 1983. The deficiencies at issue are not curable through amendment. Akhtar v. Mesa, 698 F.3d 1202,  
27 1212-13 (9th Cir. 2012); Lopez v. Smith, 203 F.3d 1122, 1130 (9th Cir. 2000).

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Accordingly, Plaintiff's complaint is HEREBY DISMISSED without prejudice for failure to state a cognizable section 1983 claim.

IT IS SO ORDERED.

Dated: January 12, 2015

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE