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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

COLEMAN PAYNE,
Plaintiff,
v.
COUNTY OF CALAVERAS, et al.,
Defendants.

No. 1:17-cv-00906-DAD-SKO
ORDER GRANTING IN PART
DEFENDANTS' MOTION TO DISMISS
(Doc. No. 58)

This matter is before the court on a motion to dismiss brought by defendants Calaveras County Sheriff and Calaveras County Jail (hereinafter “defendants”). (Doc. No. 58.) Having considered the parties briefings, and having heard the oral arguments of counsel, the court will grant defendants’ motion in part.

BACKGROUND

In the second amended complaint, plaintiff alleges as follows. On or about April 2, 2016, in San Andreas, California, plaintiff was riding a bicycle she had obtained at an event for bicycle enthusiasts. (Doc. No. 41 at ¶ 18.) Plaintiff believed that she was doing so with the owner’s consent. (*Id.*) While riding the bicycle, plaintiff was confronted by a sheriff’s patrol vehicle and an ambulance, whereupon she was taken into custody. (*Id.* at ¶¶ 18–19.) Plaintiff was arrested and had a blood sample drawn, although she was never informed that she was being placed under arrest, nor was she instructed of her *Miranda* rights. (*Id.* at ¶¶ 19–20.) Plaintiff was taken to the

1 Calaveras County Jail and asked whether she took any medications. (*Id.* at ¶ 21.) Plaintiff listed
2 her medications and was then placed in solitary confinement for roughly two months. (*Id.* at
3 ¶¶ 21–22.) At no time during that time was she permitted to make a phone call or contact an
4 attorney. (*Id.* at ¶ 21.) Plaintiff was also denied any opportunity to post bail. (*Id.* at ¶ 24.)
5 During her two months in solitary confinement, plaintiff was allowed out of her cell only for
6 occasional showers or to use the jail’s yard. (*Id.* at ¶ 25.) During one such instance, plaintiff
7 alleges that while showering, four correctional officers pulled her out of the shower, dragged her
8 through the cell block, and then ultimately threw her back into her cell. (*Id.* at ¶ 27.)

9 Throughout her confinement, plaintiff was never provided with any of her medications
10 despite her repeated requests. (*Id.* at ¶ 28.) This caused plaintiff to experience dozens of seizures
11 that were readily apparent to guards at the jail. (*Id.*) Plaintiff also mentioned her seizures to
12 defendant Lynch, a medical professional at the jail. (*Id.*) Though on one occasion, defendant
13 Lynch arranged for plaintiff to visit a doctor, the doctor also did not provide plaintiff with her
14 medications. (*Id.* at ¶ 32.)

15 Plaintiff’s first appearance in court occurred at the end of May 2016, followed by a second
16 court appearance in July 2016. (*Id.* at ¶ 35, 38.) Following her second appearance, plaintiff was
17 transferred to Metropolitan State Hospital in Los Angeles, where she remained until late October
18 2016. (*Id.* at ¶ 38–39.) At this facility, plaintiff was provided with incorrect medications that led
19 to panic attacks, akathisia, and cognitive impairment. (*Id.* at ¶ 40.) Throughout her confinement,
20 plaintiff was specifically not provided with her proper gender hormones, which she requires as a
21 transgender woman. (*Id.* at ¶ 42.) Eventually, plaintiff pleaded guilty to misdemeanor theft, and
22 was released from custody. (*Id.* at ¶ 44.)

23 Defendants filed the instant motion to dismiss on June 12, 2018. (Doc. No. 58.)
24 Defendants seek dismissal of all federal causes against them based on a lack of jurisdiction and
25 failure to state a claim. (*Id.*) Defendants also request that the court decline to exercise
26 supplemental jurisdiction over plaintiff’s remaining state law claims. (*Id.* at 5.) Plaintiff filed her
27 opposition on July 2, 2018. (Doc. No. 59.) Defendants’ reply was filed on July 10, 2018. (Doc.
28 No. 60.)

1 **LEGAL STANDARD**

2 The purpose of a motion to dismiss pursuant to Rule 12(b)(6) is to test the legal
3 sufficiency of the complaint. *N. Star Int’l v. Ariz. Corp. Comm’n*, 720 F.2d 578, 581 (9th Cir.
4 1983). “Dismissal can be based on the lack of a cognizable legal theory or the absence of
5 sufficient facts alleged under a cognizable legal theory.” *Balistreri v. Pacifica Police Dep’t*, 901
6 F.2d 696, 699 (9th Cir. 1990). A plaintiff is required to allege “enough facts to state a claim to
7 relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). “A
8 claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw
9 the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v.*
10 *Iqbal*, 556 U.S. 662, 678 (2009).

11 In determining whether a complaint states a claim on which relief may be granted, the
12 court accepts as true the allegations in the complaint and construes the allegations in the light
13 most favorable to the plaintiff. *Hishon v. King & Spalding*, 467 U.S. 69, 73 (1984); *Love v.*
14 *United States*, 915 F.2d 1242, 1245 (9th Cir. 1989). However, the court need not assume the truth
15 of legal conclusions cast in the form of factual allegations. *U.S. ex rel. Chunie v. Ringrose*, 788
16 F.2d 638, 643 n.2 (9th Cir. 1986). While Rule 8(a) does not require detailed factual allegations,
17 “it demands more than an unadorned, the defendant-unlawfully-harmed-me accusation.” *Iqbal*,
18 556 U.S. at 678. A pleading is insufficient if it offers mere “labels and conclusions” or “a
19 formulaic recitation of the elements of a cause of action.” *Twombly*, 550 U.S. at 555. *See also*
20 *Iqbal*, 556 U.S. at 676 (“Threadbare recitals of the elements of a cause of action, supported by
21 mere conclusory statements, do not suffice.”). Moreover, it is inappropriate to assume that the
22 plaintiff “can prove facts which it has not alleged or that the defendants have violated the . . . laws
23 in ways that have not been alleged.” *Associated Gen. Contractors of Cal., Inc. v. Cal. State*
24 *Council of Carpenters*, 459 U.S. 519, 526 (1983).

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1 ANALYSIS

2 A. Section 1983 Claims

3 As stated, the only parties presently seeking dismissal of plaintiff’s claims are the
4 Calaveras County Sheriff and the Calaveras County Jail.¹ These defendants contend that as
5 subdivisions of Calaveras County, they are not “persons” under 42 U.S.C. § 1983.

6 Defendants have moved for dismissal under both Rule 12(b)(1) and 12(b)(6). In moving
7 to dismiss under Rule 12(b)(1), defendants contend that because the Calaveras County Sheriff and
8 Calaveras County Jail are not separate entities from the County, this court lacks jurisdiction over
9 the § 1983 claims against them. (Doc. No. 58-1 at 2.) This argument is without merit. The
10 question of whether a defendant named in an action brought pursuant to § 1983 is a “person” is a
11 statutory rather than jurisdictional question. *Paeste v. Gov’t of Guam*, 798 F.3d 1228, 1234 (9th
12 Cir. 2015) (citing *Settles v. U.S. Parole Comm’n*, 429 F.3d 1098, 1105 (D.C. Cir. 2005); *Barker*
13 *v. Goodrich*, 649 F.3d 428, 433 n. 1 (6th Cir. 2011) and *Bolden v. Se. Pa. Transp. Auth.*, 953 F.2d
14 807, 821 (3d Cir. 1991) (en banc)). By virtue of 28 U.S.C. § 1331, this court possesses original
15 jurisdiction over “all civil actions arising under the Constitution, laws, or treaties of the United
16 States.” Title 42 U.S.C. § 1983 is plainly such a law. Personhood under § 1983 is an element of
17 the cause of action, not a jurisdictional requirement; defendants’ attempts to recast it as
18 jurisdictional amount to “mere wordplay” and is therefore not persuasive. *Settles*, 429 F.3d 1098,
19 1105 (D.C. Cir. 2005.) Accordingly, the court declines defendants’ request to dismiss under Rule
20 12(b)(1).

21 Next, the court considers whether plaintiff has failed to state a claim against the moving
22 defendants. Although cities, counties, and other municipal entities are considered “persons”
23 under § 1983, a long line of cases stands for the proposition that subdivisions of municipalities,
24 such as local police departments, are not persons. *See, e.g., United States v. Kama*, 394 F.3d
25 1236, 1239–40 (9th Cir. 2005) (Ferguson, J., concurring) (“[M]unicipal police departments and

26 ¹ Plaintiff is attempting to assert a claim against the Calaveras County Sheriff’s Office, rather
27 than against the individual who served or serves as the Calaveras County Sheriff. (*See* Doc. No.
28 41 at 1) (referring to the Calaveras County Sheriff as “a governmental agency of unknown
form”).

1 bureaus are generally not considered ‘persons’ within the meaning of 42 U.S.C. § 1983) (citing
2 *Hervey v. Estes*, 65 F.3d 784, 791 (9th Cir. 1995)); *see also Pearson v. Bakersfield Police Dep’t.*,
3 No. 1:18-cv-0372-LJO-JLT, 2018 WL 3198065, at *5 (E.D. Cal. June 27, 2018) (same); *Cartee v.*
4 *Imperial County Sheriff’s Dep’t.*, No. 3:18-cv-00327-CAB-AGS, 2018 WL 2411742, at * 3 (S.D.
5 Cal. May 29, 2018) (“[D]epartments of municipal entities are not “persons” subject to suit under
6 § 1983; therefore, a local law enforcement department (like the Imperial County Sheriff’s
7 Department) is not a proper party.”); *Anderson v. Sacramento Police Dep’t*, No. 2:16-cv-0527-
8 TLN-GGH PS, 2016 WL 3091162, at *4 (E.D. Cal. June 2, 2016) (same); *Gomez v. County of*
9 *Fresno*, No. 1:16-cv-00122-AWI-BAM, 2016 WL 8730877, at *2 (E.D. Cal. Feb. 12, 2016)
10 (same); *Rodriguez v. County of Contra Costa*, No. C 13-02516 SBA, 2013 WL 5946112, at *3
11 (N.D. Cal. Nov. 5, 2013) (same); *Gonzales v. City of Clovis*, No. 1:12-cv-00053-AWI, 2013 WL
12 394522, at *13 (E.D. Cal. Jan. 30, 2013) (“The Clovis Police Department is a municipal
13 *department* within the City of Clovis, and is not, as a general matter, considered a ‘person’ within
14 the meaning of Section 1983.”).

15 Plaintiff does not attempt to rebut this argument on its merits. Instead, plaintiff merely
16 contends that notwithstanding this line of cases, “public policy justifications” weigh against
17 dismissing defendants. (Doc. No. 59 at 5.) Dismissal of claims against such entities will, in
18 plaintiff’s view, permit Sheriff’s Departments to “operate seemingly above the law.” (*Id.*) As the
19 cases cited above indicate, the clear weight of authority compels the conclusion that sub-units of
20 municipal entities, including defendants Calaveras County Sheriff Office and the Calaveras
21 County Jail, are not “persons” under § 1983. No case has been brought to this court’s attention
22 that has expressly held to the contrary. This court cannot ignore well-established legal principles

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1 in response to vaguely stated “public policy justifications.”² The court will therefore grant
2 defendants’ motion to dismiss the moving defendants from all of plaintiff’s causes of action
3 brought against them pursuant to 42 U.S.C. § 1983.

4 **B. Supplemental Jurisdiction**

5 The remaining causes of action—for battery, intentional infliction of emotional distress,
6 and negligence—are brought under state law. Defendants next ask the court to decline to exercise
7 supplemental jurisdiction over these remaining claims brought against them. (Doc. No. 58-1 at
8 5.)

9 Where a district court possesses original jurisdiction over some of the claims in the action,
10 the court generally possesses supplemental jurisdiction over other claims over which the court
11 does not have original jurisdiction, but “that are so related . . . that they form part of the same case
12 or controversy under Article III of the United States Constitution.” 28 U.S.C. § 1367(a).

13 Notwithstanding this provision, however, courts may decline to exercise such supplemental
14 jurisdiction over a claim if “(1) the claim raises a novel or complex issue of State law, (2) the
15 claim substantially predominates over the claim or claims over which the district court has
16 original jurisdiction, (3) the district court has dismissed all claims over which it has original
17 jurisdiction, or (4) in exceptional circumstances, there are other compelling reasons for declining
18 jurisdiction.” *Id.* at § 1367(c). The court’s discretion to exercise jurisdiction over state law
19 claims is informed by the values of judicial economy, fairness, convenience, and comity. *Acri v.*
20 *Varian Assocs., Inc.*, 114 F.3d 999, 1001 (9th Cir. 1997) (en banc). In addition, “[t]he Supreme
21 Court has stated, and [the Ninth Circuit] ha[s] often repeated, that ‘in the usual case in which all
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23 ² In any event, dismissal of plaintiff’s § 1983 claims against these sub-departments of
24 municipalities will in no way “make it harder to hold law enforcement agencies like the Sheriff’s
25 Department accountable for their misdeeds and harms inflicted upon the public” as plaintiff
26 contends. (Doc. No. 59 at 6.) Although the court will dismiss the § 1983 claims against the
27 government agency referred to by plaintiff as “Calaveras County Sheriff” and the Calaveras
28 County Jail, this action proceeds against the defendant County of Calaveras itself. As defendants
acknowledge in their motion, under California law, “monetary damages for § 1983 claims are
paid by the County.” (Doc. No. 58-1 at 6.) Dismissal of the municipal sub-departments as
defendants will not prejudice plaintiff’s ability to obtain relief if her claims are ultimately found
to be meritorious.

1 federal-law claims are eliminated before trial, the balance of factors . . . will point toward
2 declining to exercise jurisdiction over the remaining state-law claims.” *Id.* (quoting *Carnegie–*
3 *Mellon Univ. v. Cohill*, 484 U.S. 343, 350 n. 7 (1988)); *see also Satey v. JP Morgan Chase &*
4 *Co.*, 521 F.3d 1087, 1091 (9th Cir. 2008) (recognizing this principle but noting that dismissal of
5 the remaining state law claims is not mandatory). This conclusion is based on the principle that
6 “primary responsibility for developing and applying state law rests with the state courts.” *Curiel*
7 *v. Barclays Capital Real Estate Inc.*, Civ. No. S–09–3074 FCD KJM, 2010 WL 729499, at *1
8 (E.D. Cal. Mar. 2, 2010).

9 The court turns to whether any of the four factors exist that would support declining to
10 exercise supplemental jurisdiction. First, the remaining state law claims, alleging battery,
11 intentional infliction of emotional distress, and negligence, do not present novel or particularly
12 complex issues of state law. Federal courts routinely handle such claims, and nothing about the
13 facts in this case that would appear to render these claims unusually difficult for a federal court to
14 resolve. Second, these state law claims do not predominate over the federal claims: more than
15 half of the remaining claims in this action are brought under 42 U.S.C. § 1983, and both the
16 federal and state claims are alleged based on the same factual allegations. Third, although the
17 court by this order will dismiss all federal claims *against these defendants*, other federal claims
18 remain against other named defendants. Because federal claims remain, declining to exercise
19 supplemental jurisdiction in this case could result in two parallel proceedings regarding the same
20 nucleus of operative fact, one in state court and the other in federal court. Such an outcome
21 would inconvenience the parties, expend scarce judicial resources, and create the potential for
22 inconsistent judgments. *See Acri*, 114 F.3d at 1001; *Driesen v. First Revenue Assurance, LLC*,
23 No. CV 10-8061-PCT-MHM, 2010 WL 5090363, at *2 (D. Ariz. Dec. 8, 2010); *Kinder v*
24 *Citibank*, No. 99-CV-2500 W (JAH), 2000 WL 1409762, at *4 (S.D. Cal. Sept. 14, 2000) (stating
25 that requiring the parties to maintain separate suits in state and federal court would “undermine
26 the purposes of supplemental jurisdiction”). Finally, the court has identified no exceptional
27 circumstances which would justify declining to exercise supplemental jurisdiction here.

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1 Accordingly, the court will decline defendant’s request to dismiss the state law causes of
2 action against defendants.³

3 **C. Leave to Amend**

4 Finally, the court addresses plaintiff’s request for further leave to amend the complaint.
5 (Doc. No. 59 at 7.) The Federal Rules of Civil Procedure provide that “[t]he court should freely
6 give leave [to amend the pleadings] when justice so requires.” Fed. R. Civ. P. 15(a)(2).
7 Nevertheless, leave to amend need not be granted when the amendment: (1) prejudices the
8 opposing party; (2) is sought in bad faith; (3) produces an undue delay in litigation; or (4) is
9 futile. *See AmerisourceBergen Corp. v. Dialysist W. Inc.*, 465 F.3d 946, 951 (9th Cir. 2006)
10 (citing *Bowles v. Reade*, 198 F.3d 752, 757 (9th Cir. 1999)). Amendment is therefore proper “if
11 the deficiencies can be cured with additional allegations that are ‘consistent with the challenged
12 pleading’ and that do not contradict the allegations in the original complaint.” *United States v.*
13 *Corinthian Colls.*, 655 F.3d 984, 955 (9th Cir. 2011) (citing *Reddy v. Litton Indus., Inc.*, 912 F.2d
14 291, 296–97 (9th Cir. 1990)).

15 Having reviewed plaintiff’s second amended complaint and in light of the analysis set
16 forth above, the court is convinced that the granting of further leave to amend would be futile
17 here. Additional factual allegations would not remedy the deficiencies of plaintiff’s second
18 amended complaint, since the moving defendants would still not be considered “persons” under
19 § 1983. *See, e.g., Gazo v. Richmond Police Dep’t*, No. 15-CV-00172-EDL, 2015 WL 898707, at
20 *2 (N.D. Cal. Mar. 2, 2015) (dismissing plaintiff’s § 1983 claims against the Richmond Police
21 Department with prejudice because “sub-departments or bureaus of municipalities, such as the
22 police departments, are not generally considered ‘persons’ within the meaning of § 1983”).
23 Because no relief is available against these entities under § 1983 as a matter of law, dismissal
24 without further leave to amend is appropriate. *See Bonin v. Calderon*, 59 F.3d 815, 845 (9th Cir.
25 1995) (“Futility of amendment can, by itself, justify the denial of a motion for leave to amend.”).

26 ³ Defendants did not move for dismissal of any of the state law claims brought against for failure
27 to state a claim. Because the court has elected to exercise supplemental jurisdiction over those
28 claims, they remain live controversies. However, the court will permit the moving defendants to
file a second motion to dismiss the state law causes of action if they wish to do so.

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CONCLUSION

For these reasons:

1. Defendants’ motion to dismiss (Doc. No. 58) is granted in part;
2. Counts One through Five are dismissed as to defendant Calaveras County Sheriff;
3. Counts One, Two, Three, and Five are dismissed as to defendant Calaveras County Jail; and
4. If defendants Calaveras County Sheriff and Calaveras County Jail intend to seek dismissal of the remaining state law causes of action brought against them, they are authorized to file a second motion to dismiss with respect to those remaining claims, or an answer, within twenty-eight days of service of this order.

IT IS SO ORDERED.

Dated: July 28, 2018



UNITED STATES DISTRICT JUDGE