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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

DOMINIQUE BAKER,)	Case No.: 1:18-cv-00017-AWI-SAB (PC)
Plaintiff,)	FINDINGS AND RECOMMENDATIONS RECOMMENDING DISMISSAL OF COMPLAINT, WITHOUT PREJUDICE
v.)	
DUSTIN HUGHSON, et.al.,)	
Defendants.)	[ECF No. 1]

Plaintiff Dominique Baker, a state prisoner, is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

Plaintiff’s complaint, filed on January 3, 2018, is currently before the Court for screening.

I.

SCREENING REQUIREMENT

The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally “frivolous or malicious,” that “fail[] to state a claim on which relief may be granted,” or that “seek[] monetary relief against a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2)(B).

A complaint must contain “a short and plain statement of the claim showing that the pleader is entitled to relief. . . .” Fed. R. Civ. P. 8(a)(2). Detailed factual allegations are not required, but “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements,

1 do not suffice.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (citing Bell Atlantic Corp. v. Twombly,
2 550 U.S. 544, 555 (2007)). Moreover, Plaintiff must demonstrate that each defendant personally
3 participated in the deprivation of Plaintiff’s rights. Jones v. Williams, 297 F.3d 930, 934 (9th Cir.
4 2002).

5 Prisoners proceeding pro se in civil rights actions are entitled to have their pleadings liberally
6 construed and to have any doubt resolved in their favor. Wilhelm v. Rotman, 680 F.3d 1113, 1121 (9th
7 Cir. 2012) (citations omitted). To survive screening, Plaintiff’s claims must be facially plausible,
8 which requires sufficient factual detail to allow the Court to reasonably infer that each named
9 defendant is liable for the misconduct alleged. Iqbal, 556 U.S. at 678-79; Moss v. U.S. Secret Service,
10 572 F.3d 962, 969 (9th Cir. 2009). The “sheer possibility that a defendant has acted unlawfully” is not
11 sufficient, and “facts that are ‘merely consistent with’ a defendant’s liability” falls short of satisfying
12 the plausibility standard. Iqbal, 556 U.S. at 678; Moss, 572 F.3d at 969.

13 **II.**

14 **COMPLAINT ALLEGATIONS**

15 Plaintiff names Dustin Hughson, Deputy District Attorney of Kings County, and Suzan
16 Hubbard, Associate Warden at Corcoran State Prison, as defendants.

17 Plaintiff alleges that on September 8, 2011, Deputy District Attorney Justin Hughson filed
18 felony battery charges against him under Penal Code § 4501.5 for an incident that occurred while
19 Plaintiff was a prisoner at Corcoran State Prison. Plaintiff contends that he only grabbed the wrist of
20 the alleged victim, who did not sustain injuries, and therefore there was a lack of evidence.
21 Nevertheless, he was convicted and sentenced with a consecutive sentence of twenty-five years to life.
22 Plaintiff asserts that he should never have been charged or prosecuted.

23 **III.**

24 **DISCUSSION**

25 “Federal law opens two main avenues to relief on complaints related to imprisonment: a
26 petition for writ of habeas corpus, 28 U.S.C. § 2254, and a complaint under ... 42 U.S.C. § 1983.”
27 Muhammad v. Close, 540 U.S. 749, 750 (2004) (per curiam). “Challenges to the validity of any
28 confinement or to particulars affecting its duration are the province of habeas corpus; requests for

1 These Findings and Recommendations will be submitted to the United States District Judge
2 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **thirty (30) days** after
3 being served with these Findings and Recommendations, Plaintiff may file written objections with the
4 Court. The document should be captioned “Objections to Magistrate Judge’s Findings and
5 Recommendations.” Plaintiff is advised that failure to file objections within the specified time may
6 result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)
7 (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991).

8
9 IT IS SO ORDERED.

10 Dated: May 7, 2018



UNITED STATES MAGISTRATE JUDGE