

1 1915(e)(2)(B).

2 A complaint must contain “a short and plain statement of the claim showing that the pleader is
3 entitled to relief. . . .” Fed. R. Civ. P. 8(a)(2). Detailed factual allegations are not required, but
4 “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements,
5 do not suffice.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (citing Bell Atlantic Corp. v. Twombly,
6 550 U.S. 544, 555 (2007)). Moreover, Plaintiff must demonstrate that each defendant personally
7 participated in the deprivation of Plaintiff’s rights. Jones v. Williams, 297 F.3d 930, 934 (9th Cir.
8 2002).

9 Prisoners proceeding pro se in civil rights actions are entitled to have their pleadings liberally
10 construed and to have any doubt resolved in their favor. Wilhelm v. Rotman, 680 F.3d 1113, 1121
11 (9th Cir. 2012) (citations omitted). To survive screening, Plaintiff’s claims must be facially plausible,
12 which requires sufficient factual detail to allow the Court to reasonably infer that each named
13 defendant is liable for the misconduct alleged. Iqbal, 556 U.S. at 678-79; Moss v. U.S. Secret Service,
14 572 F.3d 962, 969 (9th Cir. 2009). The “sheer possibility that a defendant has acted unlawfully” is not
15 sufficient, and “facts that are ‘merely consistent with’ a defendant’s liability” falls short of satisfying
16 the plausibility standard. Iqbal, 556 U.S. at 678; Moss, 572 F.3d at 969.

17 **II.**

18 **COMPLAINT ALLEGATIONS**

19 In 2008, Sergeant Villanueva told Plaintiff that he had reviewed his central file and found
20 confidential information concerning a trial held in 1990 in the Sacramento County Superior Court.
21 Villanueva told Plaintiff that his co-defendant, Teddy Crawford, committed suicide after writing a
22 lengthy letter which exonerated Plaintiff of the crime of murder. Villanueva told Plaintiff there was a
23 trial in 1990, concerning the suicide letter written by Crawford, but Plaintiff was never notified of the
24 trial. In 1991, Plaintiff was processed for parole but was never released. Villanueva told Plaintiff that
25 the letter by Crawford combined with the trial record should have resulted in Plaintiff’s release from
26 prison.

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1 Plaintiff sought the assistance of a public defender. However, Plaintiff was advised that unless
2 he could obtain documents from the confidential section of his central there was nothing that could be
3 done.

4 On or about September 29, 2016, a Board of Parole Commissioner named Zarrannam released
5 part of the documents which were given to attorney, Michael Evan Beckman, who was assisting
6 Plaintiff at the time. However, Plaintiff has not been provided with the documents.

7 Plaintiff requests access to the suicide letter of Teddy Crawford, access to the trial record from
8 the Sacramento County Superior Court, the parole packet processed by Sergeant Singer, and
9 immediate release from prison.

10 III. 11 DISCUSSION

12 “Federal law opens two main avenues to relief on complaints related to imprisonment: a
13 petition for writ of habeas corpus, 28 U.S.C. § 2254, and a complaint under ... 42 U.S.C. § 1983.”
14 Muhammad v. Close, 540 U.S. 749, 750 (2004) (per curiam). “Challenges to the validity of any
15 confinement or to particulars affecting its duration are the province of habeas corpus; requests for
16 relief turning on circumstances of confinement may be presented in a § 1983 action.” Id. (internal
17 citation omitted). Federal courts lack habeas jurisdiction over claims by state prisoners that are not
18 within “the core of habeas corpus.” Nettles v. Grounds, 830 F.3d 922, 934 (9th Cir. 2016) (en banc),
19 cert. denied, 137 S.Ct. 645 (2017). A prisoner’s claims are within the core of habeas corpus if they
20 challenge the fact or duration of his conviction or sentence. Id. at 934. “[W]hen a prisoner’s claim
21 would not ‘necessarily spell speedier release,’ that claim does not lie at ‘the core of habeas corpus,’
22 and may be brought, if at all, under § 1983.” Skinner v. Switzer, 562 U.S. 521, 534 n.13 (2011)
23 (citing Wilkinson v. Dotson, 544 U.S. 74, 82 (2005)); Nettles, 830 F.3d at 934.

24 It is clear that Plaintiff is challenging his conviction which impacts the duration of his
25 sentence. As such, the proper avenue to seek such relief is by way of habeas corpus petition filed
26 pursuant to 28 U.S.C. § 2254. Plaintiff is advised that the proper venue for challenging the execution
27 of his sentence is the district court containing the sentencing court, while the proper venue to
28 challenge the execution of his sentence is the district court containing the prison in which Petitioner is

1 incarcerated. 28 U.S.C. § 2241(d). Accordingly, to the extent Plaintiff wishes to challenge the
2 duration of his confinement he must file a habeas corpus petition in the district court containing the
3 sentencing court. Indeed, Plaintiff has previously filed a petition for writ of habeas corpus in this
4 Court in Blakesley v. Yates, Case No. 2:08-cv-01595-JFM, wherein he raised the exact challenge he
5 presents in this case, namely, that his co-defendant, Teddy Crawford, confessed to the murder but he
6 was not allowed to attend the court proceedings regarding such confession. (Case No. 2:08-cv-01595-
7 JFM, ECF No. 1.)¹ The action was voluntarily dismissed by Plaintiff on November 18, 2009. (Id.,
8 ECF No. 36.) Although the Court would generally grant Plaintiff leave to amend in light of his pro se
9 status, amendment is futile in this instance because the deficiencies cannot be cured by amendment.
10 See Lopez v. Smith, 203 F.3d 1122, 1127 (9th Cir. 2000); Schmier v. U.S. Court of Appeals for the
11 Ninth Circuit, 279 F.3d 817, 824 (9th Cir. 2002) (recognizing “[f]utility of amendment” as a proper
12 basis for dismissal without leave to amend); see also Trimble v. City of Santa Rosa, 49 F.3d 583, 586
13 (9th Cir. 1995) (a civil rights complaint seeking habeas relief should be dismissed without prejudice to
14 filing as a petition for writ of habeas corpus). Accordingly, Plaintiff’s instant complaint must be
15 dismissed.

16 **IV.**

17 **RECOMMENDATIONS**

18 Based on the foregoing, it is HEREBY RECOMMENDED that:

- 19 1. The instant action be dismissed for failure to state a cognizable claim under 42
20 U.S.C. § 1983;
- 21 2. The Clerk of Court be directed to terminate this action; and
- 22 3. The Office of the Clerk is directed to randomly assign this action to a District
23 Judge.

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28 ¹ Court records are subject to judicial notice. MGIC Indem. Co. v. Weisman, 803 F.2d 500, 505 (9th Cir. 1986); United States v. Wilson, 631 F.2d 118, 119 (9th Cir. 1980).

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 **twenty-one (21)**
3 **days** after being served with these Findings and Recommendations, Plaintiff may file written
4 objections with the Court. The document should be captioned “Objections to Magistrate Judge’s
5 Findings and Recommendations.” Plaintiff is advised that failure to file objections within the
6 specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-
7 39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

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9 IT IS SO ORDERED.

10 Dated: May 23, 2018



UNITED STATES MAGISTRATE JUDGE