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

ROLAND THOMAS KOCH,)	Case No.: 1:18-cv-01693-DAD-SAB (PC)
)	
Plaintiff,)	
)	
v.)	FINDINGS AND RECOMMENDATION
)	RECOMMENDING DISMISSAL OF ACTION
BRANDON PRICE, et.al.,)	FOR FAILURE TO STATE A COGNIZABLE
)	CLAIM FOR RELIEF
Defendants.)	
)	[ECF No. 10]
)	
)	
)	

Plaintiff Roland Thomas Price is a civil detainee proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Individuals detained pursuant to California Welfare and Institutions Code § 6600 et seq. are civil detainees and are not prisoner within the meaning of the Prison Litigation Reform Act. Page v. Torrey, 201 F.3d 1136, 1140 (9th Cir. 2000).

Currently before the Court is Plaintiff’s first amended complaint, filed February 4, 2019.

**I.
SCREENING REQUIREMENT**

Although Plaintiff is a civil detainee rather than a prisoner, he is proceeding in forma pauperis and the complaint is therefore subject to screening under 28 U.S.C. § 1915(e)(2)(B). Under § 1915(e)(2)(B), the court must dismiss a case if at any time the Court determines that the complaint “(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary

1 relief against a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2); see Lopez v. Smith,
2 203 F.3d 1122, 1129 (9th Cir. 2000) (section 1915(e) applies to all in forma pauperis complaints, not
3 just those filed by prisoners); Calhoun v. Stahl, 254 F.3d 845 (9th Cir. 2001) (dismissal required of in
4 forma pauperis proceedings which seek monetary relief from immune defendants); Cato v. United
5 States, 70 F.3d 1103, 1106 (9th Cir. 1995) (district court has discretion to dismiss in forma pauperis
6 complaint under 28 U.S.C. § 1915(e)); Barren v. Harrington, 152 F.3d 1193 (9th Cir. 1998) (affirming
7 sua sponte dismissal for failure to state a claim). The Court exercises its discretion to screen the
8 plaintiff’s complaint in this action to determine if it “(i) is frivolous or malicious; (ii) fails to state a claim
9 on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from
10 such relief.” 28 U.S.C. § 1915(e)(2).

11 In determining whether a complaint fails to state a claim, the Court uses the same pleading
12 standard used under Federal Rule of Civil Procedure 8(a). A complaint must contain “a short and plain
13 statement of the claim showing that the pleader is entitled to relief. . . .” Fed. R. Civ. P. 8(a)(2). Detailed
14 factual allegations are not required, but “[t]hreadbare recitals of the elements of a cause of action,
15 supported by mere conclusory statements, do not suffice.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
16 (citing Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007)).

17 In reviewing the pro se complaint, the Court is to liberally construe the pleadings and accept as
18 true all factual allegations contained in the complaint. Erickson v. Pardus, 551 U.S. 89, 94 (2007).
19 Although a court must accept as true all factual allegations contained in a complaint, a court need not
20 accept a plaintiff’s legal conclusions as true. Iqbal, 556 U.S. at 678. “[A] complaint [that] pleads facts
21 that are ‘merely consistent with’ a defendant’s liability . . . ‘stops short of the line between possibility
22 and plausibility of entitlement to relief.’” Iqbal, 556 U.S. at 678 (quoting Twombly, 550 U.S. at 557).
23 Therefore, the complaint must contain sufficient factual content for the court to draw the reasonable
24 conclusion that the defendant is liable for the misconduct alleged. Iqbal, 556 U.S. at 678.

25 II.

26 COMPLAINT ALLEGATIONS

27 Plaintiff contends his legal property was stolen by Brandon Price (Hospital Administrator at
28 Coalinga State Hospital), Jack Carter (Chief of Police Services at Coalinga State Hospital), John Doe

1 (Psych Tech at Coalinga State Hospital), and Jane Doe (Psych Tech at Coalinga State Hospital).
2 Plaintiff was not present during the “theft” of his legal property, but the named Defendants are the
3 responsible parties in the theft of his legal property. Over a year has passed and he still does not have
4 possession of his legal personal property.

5 III.

6 DISCUSSION

7 A. Unauthorized Confiscation of Property

8 The Due Process Clause of the Fourteenth Amendment of the United States Constitution
9 protects Plaintiff from being deprived of property without due process of law, Wolff v. McDonnell,
10 418 U.S. 539, 5563 (1974), and Plaintiff has a protected interest in his personal property, Hansen v.
11 May, 502 F.2d 728, 730 (9th Cir. 1974). Authorized, intentional deprivations of property are
12 actionable under the Due Process Clause. See Hudson v. Palmer, 468 U.S. 517, 532, n.13 (1984);
13 Quick v. Jones, 754 F.2d 1521, 1524 (9th Cir. 1985). However, the Due Process Clause is not violated
14 by the random, unauthorized deprivation of property so long as the state provides an adequate post-
15 deprivation remedy. Hudson v. Palmer, 468 U.S. 517, 533 (1984); Barnett v. Centoni, 31 F.3d 813,
16 816-17 (9th Cir. 1994). Authorized deprivations of property are permissible if carried out pursuant to
17 a regulation that is reasonably related to a legitimate penological interest. Turner v. Safley, 482 U.S.
18 78, 89 (1987). Legitimate, non-punitive governmental objectives include maintaining security,
19 ensuring a detainee’s present at trial, and managing the detention facility effectively. Jones v. Blanas,
20 393 F.3d 918, 932 (9th Cir. 2014) (citing Hallstrom v. City of Garden City, 991 F.2d 1473, 1484 (9th
21 Cir. 1993)).

22 Plaintiff’s claim that Defendants confiscated his legal property and have refused to return it, is
23 a random, unauthorized deprivation of property for which the state provides an adequate post-
24 deprivation remedy. Hudson, 468 U.S. at 533; Barnett, 31 F.3d at 816-17 (California provides an
25 adequate post-deprivation remedy for property deprivations). Furthermore, the fact that Plaintiff’s
26 California Government Claim was rejected as untimely is of no consequence because there is no
27 cognizable federal due process claim in light of the state procedure, and this Court is not the proper
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1 forum for filing a petition for relief under California Government Code sections 946.6 and 945.4.
2 Accordingly, Plaintiff has failed to state a claim for the deprivation of his property.¹

3 **IV.**

4 **RECOMMENDATION**

5 For the reasons explained, the Court finds that Plaintiff has failed to state a cognizable § 1983
6 claim in this action, and further amendment would be futile. See Hartmann v. CDCR, 707 F.3d 1114,
7 1130 (9th Cir. 2013) (“A district court may not deny leave to amend when amendment would be
8 futile.”); Lopez v. Smith, 203 F.3d 1122, 1130 (9th Cir. 2000); Noll v. Carlson, 809 F.2d 1446-1449
9 (9th Cir. 1987).

10 Based on the foregoing, it is HEREBY RECOMMENDED that this action be dismissed for the
11 failure to state a claim upon which relief may be granted.

12 This Findings and Recommendation is submitted to the district judge assigned to this action,
13 pursuant to 28 U.S.C. § 636(b)(1)(B) and this Court’s Local Rule 304. Within **twenty-one (21) days** of
14 service of this recommendation, Plaintiff may file written objections to this Findings and
15 Recommendation with the Court. Such a document should be captioned “Objections to Magistrate
16 Judge’s Findings and Recommendations” The district judge will review the magistrate judge’s Findings
17 and Recommendation pursuant to 28 U.S.C. § 636(b)(1)(C). Plaintiff is advised that failure to file
18 objections within the specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler,
19 772 F.3d 834, 839 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

20
21 IT IS SO ORDERED.

22 Dated: **February 8, 2019**



23 **UNITED STATES MAGISTRATE JUDGE**

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28 ¹ Indeed, Plaintiff has raised the same and/or similar allegations in a separate action which is pending in this Court. See
1:18-cv-00546-LJO-GSA (PC), Koch v. Ahlin et al. (complaint dismissed with leave to amend on December 18, 2018).