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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RICHARD JAQUEZ, JR., No. 2:10-cv-01040 MCE-DAD
Plaintiff,
v. ORDER
COUNTY OF SACRAMENTO et al.,
Defendants.

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Plaintiff Richard Jaquez Jr. ("Plaintiff") seeks redress from Sacramento County and various named Sacramento County Jail employees (collectively, "Defendants") for injuries Plaintiff sustained while detained in the Sacramento County Main Jail. Defendants Sacramento County, Eric Maness, Jamie Lewis, and AnnMarie Boylan have filed a Motion to Dismiss the First Amended Complaint for failure to state a claim upon which relief can be granted pursuant to Federal Rule of Civil Procedure Rule 12(b)(6).¹

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¹ All further references to "Rule" or "Rules" are to the Federal Rules of Civil Procedure unless otherwise noted.

1 For the reasons stated below, Defendants' Motion is granted in
2 part and denied in part.²

3
4 **BACKGROUND**³

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6 Plaintiff was arrested for misdemeanor driving under the
7 influence in January 2009. Sacramento officers arrested and
8 booked him into the Sacramento County Jail, and placed him in a
9 sobering cell since he was still under the influence of alcohol
10 at the time of booking. During his incarceration, Plaintiff
11 inquired about the time from one of the guards on duty.
12 Plaintiff alleges that he instead learned that it was "time for a
13 beating." Sacramento County Jail guards proceeded to hit, punch,
14 and kick Plaintiff, who sustained multiple injuries, including a
15 fractured right elbow, and a boot imprint on his face. Plaintiff
16 subsequently went to see the jail nurse, who failed to take note
17 of the extent of his injuries, or note on the chart the
18 unmistakable boot print on his forehead. After being released,
19 Plaintiff had to undergo extensive treatment for the injuries he
20 received while incarcerated.

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25 ² Because oral argument will not be of material assistance,
26 the Court deemed this matter suitable for decision without oral
argument. E.D. Cal. Local Rule 230 (g).

27 ³ The factual assertions in this section are based on the
28 allegations in Plaintiffs' First Amended Complaint unless
otherwise specified.

1 **STANDARD**

2

3 On a motion to dismiss for failure to state a claim under
4 Rule 12(b)(6), all allegations of material fact must be accepted
5 as true and construed in the light most favorable to the nonmoving
6 party. Cahill v. Liberty Mut. Ins. Co., 80 F.3d 336, 337-38 (9th
7 Cir. 1996). Rule 8(a)(2) requires only "a short and plain
8 statement of the claim showing that the pleader is entitled to
9 relief," to "give the defendant fair notice of what the...claim is
10 and the grounds upon which it rests." Bell Atl. Corp. v. Twombly,
11 550 U.S. 544, 555 (2007) (internal citations and quotations
12 omitted). Though "a complaint attacked by a Rule 12(b)(6) motion"
13 need not contain "detailed factual allegations, a plaintiff's
14 obligation to provide the 'grounds' of his 'entitlement to relief'
15 requires more than labels and conclusions, and a formulaic
16 recitation of the elements of a cause of action will not do." Id.
17 at 555 (quoting Papasan v. Allain, 478 U.S. 265, 2869 (1986)). A
18 plaintiff's "factual allegations must be enough to raise a right
19 to relief above the speculative level." Id. (citing 5 C. Wright &
20 A. Miller, Federal Practice and Procedure § 1216 (3d ed. 2004)
21 ("[T]he pleading must contain something more...than...a statement
22 of facts that merely creates a suspicion [of] a legally cognizable
23 right of action.")).

24 Further, "Rule 8(a)(2)...requires a 'showing,' rather than a
25 blanket assertion, of entitlement to relief. Without some
26 factual allegation in the complaint, it is hard to see how a
27 claimant could satisfy the requirements of providing...grounds on
28 which the claim rests."

1 Twombly, 550 U.S. at 555 n.3 (internal citations omitted). A
2 pleading must then contain "only enough facts to state a claim to
3 relief that is plausible on its face." Id. at 570. If the
4 "plaintiffs...have not nudged their claims across the line from
5 conceivable to plausible, their complaint must be dismissed."
6 Id.

7 Once the court grants a motion to dismiss, they must then
8 decide whether to grant a plaintiff leave to amend. Rule 15(a)
9 authorizes the court to freely grant leave to amend when there is
10 no "undue delay, bad faith, or dilatory motive on the part of the
11 movant." Foman v. Davis, 371 U.S. 178, 182 (1962). In fact,
12 leave to amend is generally only denied when it is clear that the
13 deficiencies of the complaint cannot possibly be cured by an
14 amended version. See DeSoto v. Yellow Freight Sys., Inc.,
15 957 F.2d 655, 658 (9th Cir. 1992); Balistieri v. Pacifica Police
16 Dept., 901 F.2d 696, 699 (9th Cir. 1990) ("A complaint should not
17 be dismissed under Rule 12(b)(6) unless it appears beyond doubt
18 that the plaintiff can prove no set of facts in support of his
19 claim which would entitle him to relief.") (internal citations
20 omitted).

21

22

ANALYSIS

23

24 Plaintiff's First, Second and Sixth Causes of Action for
25 excessive force and battery are not contested by Defendants. The
26 remaining causes of action are at issue, however, and are
27 addressed in turn below.

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1 **A. Third and Fourth Causes of Action - Entity Liability**

2
3 Plaintiff alleges that Defendants are maintaining a de facto
4 policy of not reporting obvious evidence of jail employees' use
5 of excessive force in violation of 42 U.S.C. § 1983 and precedent
6 established under Monell v. New York City Dept. of Soc. Serv.,
7 436 U.S. 658 (1978). As a direct result of the policy, and by
8 failing to properly train jail employees, Plaintiff argues his
9 injuries went unrecorded and untreated. Defendants argue that
10 Plaintiff's claims are redundant and lack sufficient facts to
11 sustain a claim.

12
13 **1. Against the County**

14
15 Local governments are accountable under § 1983 only when the
16 injuries inflicted "fairly represent official policy or custom."
17 Monell, 436 U.S. at 694. To establish liability, a plaintiff
18 must show that he was deprived a constitutional right that the
19 county specifically had an applicable policy addressing; that the
20 policy amounted to "deliberate indifference" as to the
21 constitutional right; and that the policy was the "moving force
22 behind the constitutional violation." Mortimer v. Baca, 594 F.3d
23 714, 716 (9th Cir. 2010) (internal citations omitted). Even in
24 the light most favorable to plaintiff as required on a motion to
25 dismiss, this standard is incredibly high; one that requires the
26 plaintiff to establish more than one incident to create a
27 patterned and pervasive violation. See Oklahoma v. Tuttle,
28 471 U.S. 808, 824 (1985).

1 Further, where a municipality's failure to train evidences a
2 deliberate indifference to a plaintiff's constitutional rights,
3 the court must examine whether the "need for more or different
4 training is so obvious, and the inadequacy so likely to result in
5 the violation of constitutional rights, that the policymakers...
6 can reasonably be said to have been deliberately indifferent to
7 the need." Clouthier v. County of Contra Costa, 591 F.3d 1232,
8 1249-50 (9th Cir. 2010) (internal citations omitted).

9 In the instant case, Plaintiff has failed to plead
10 sufficient facts to demonstrate that the jail has an official
11 policy of NOT reporting what he characterizes as flagrant medical
12 evidence of police brutality. Further, Plaintiff has failed to
13 demonstrate sufficient facts to show that the training is so bad,
14 that the actions taken "amounts to an official policy."

15 Clouthier, 591 F.3d at 1250. The Court recognizes that many of
16 these deficiencies may be corrected during discovery, but that
17 this tender stage of litigation, there are not sufficient facts
18 included in the First Amended Complaint to nudge the claim
19 towards establishing an entitlement to relief. The Motion to
20 Dismiss the Third and Fourth Causes of Action as it relates to
21 the County is granted.

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1 **2. Against Individually Named Officers**

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3 The three individually named Defendants are Sacramento
4 County Jail supervisors. Individual employees can be held liable
5 for their "own culpable action or inaction in the training,
6 supervision, or control of [their] subordinates; for [their]
7 acquiescence in the constitutional deprivations; or for conduct
8 that showed a reckless or callous indifference to the rights of
9 others." Blankenhorn v. City of Orange, 485 F.3d 463, 485 (9th
10 Cir. 2007) (internal citations omitted). Supervisory liability
11 then hinges on whether the supervisor "set in motion a series of
12 acts by others," that he "knew or reasonably should have known,
13 would cause others to inflict the constitutional injury." Id.
14 (internal citations omitted).

15 In the alternative, Defendants argue that qualified immunity
16 also applies to Defendants, since the supervisors' conduct has
17 not violated clearly established rights that would have been
18 known to a reasonable person. Qualified immunity applies to
19 § 1983 claims when the pled facts allege a constitutional
20 violation and demonstrate that the right was clearly established.
21 See Pearson v. Callahan, 555 U.S. 223, 129 S. Ct. 808, 815-16
22 (2009).

23 Here, the facts as pled establish a cognizable claim.
24 Plaintiff asserts he was beaten excessively in violation of his
25 constitutional rights. The supervisors allowed this environment
26 to fester, as further indicated by their behavior that
27 acknowledging such conduct in the medical department was
28 unnecessary.

1 The failure of the medical staff, in particular, to take
2 proper notice of Plaintiff's injuries suggests there is a
3 systematic policy in place that prevents jail employees from
4 being properly trained as to their responsibilities to those in
5 custody who are injured by jail personnel. Similarly, the
6 individually named Defendants are not entitled to qualified
7 immunity. Plaintiff has pled enough facts to place Defendants on
8 notice to the claim of Fourth Amendment violations, and that
9 their conduct was potentially unlawful. The Motion to Dismiss
10 the Third and Fourth Causes of Action as to the individually
11 named Defendants is denied.

12
13 **B. Fifth Cause of Action - Entity Liability**

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15 The Fifth Cause of Action as to the Defendants is virtually
16 duplicative of the claims and requested relief under the Third
17 and Fourth Causes of Action. Therefore, Defendants' Motion to
18 Dismiss is granted as to this cause of action.

19
20 **CONCLUSION**

21
22 Based on the foregoing, Defendants' Motion to Dismiss
23 Plaintiff's First Amended Complaint (ECF No. 23) is GRANTED as to
24 Defendant County of Sacramento on the Third and Fourth Causes of
25 Action; DENIED as to Defendants Eric Maness, Jamie Lewis, and
26 AnnMarie Boylan on the Third and Fourth Causes of Action; and
27 GRANTED as to all parties on the Fifth Cause of Action.

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1 Plaintiff has not demonstrated any bad faith or other
2 malicious conduct, and therefore may file a second amended
3 complaint not later than twenty (20) days after the date this
4 Memorandum and Order is filed electronically. If no amended
5 complaint is filed within said twenty (20)-day period, without
6 further notice, Plaintiff's claims will be dismissed without
7 leave to amend.

8 IT IS SO ORDERED.

9 Dated: January 31, 2011

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12 MORRISON C. ENGLAND, JR.
13 UNITED STATES DISTRICT JUDGE
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