

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

ROGER P. SNITCHFIELD,

2:10-CV-3243-TLN-CMK

Plaintiff,

vs.

FINDINGS AND RECOMMENDATIONS

RED BLUFF POLICE DEPT., et al.,

Defendants.

_____ /

Plaintiff, who is proceeding pro se, brings this civil action. Pending before the court is defendants' unopposed motion to dismiss (Doc. 19).

I. BACKGROUND

This action proceeds on plaintiff's first amended complaint (Doc. 5) against the Red Bluff Police Department and various of its officers, Scott Capilla, John Rossi, and Martin Perrone. Plaintiff alleges:

1. I allege that numerous police officers under orders of Mr. Scott Capilla were keeping me under daily surveillance in Red Bluff Riverside Park from September 2006 until the time of the traffic citation (April 28, 2008) because it was assumed that a prior time (August 2006) I ignored a subpoena issued by the Tehama DA Office to appear at the arraignment

1 and trial of a person who attempted to stab me in the dark in Red Bluff
2 (July 2006). I was in Trinity County at the time the subpoena was issued
and I did not receive it until after it had expired.

3 2. I allege that Officer John Rossi and two other unidentified individuals
4 deliberately entrapped me in an intersection to make it appear that I had
committed a violation (April 28, 2008). I had a perfect driving record of
5 more than twenty years before I was cited in the evening of the very same
day that I returned to Red Bluff after an absence of three weeks. . . . On
6 February 6, 2009, the Tehama Court notified me that the fine had been
increased from \$380 to \$648 and my license to drive was suspended one
7 year after the citation on June 3, 2009, by the DMV and continues to be
suspended from that date until the present time. I am enduring much
8 hardship due to inability to drive because of an illegal citation.

9 Plaintiff adds:

10 The entrapment occurred as follows: Shortly before I left Red Bluff
11 Riverside Park in the evening of April 28, 2008, there was an unmarked
police car which passed near my car to verify my presence and notify (by
12 radio) two police vehicles (one unmarked) that I would soon be passing
through the intersection where I would be cited. As soon as I entered the
13 intersection on a green light an unmarked police car entered from the
opposite side and violated my right of way by turning left directly in front
14 of me in order to block me from getting any further into the intersection
and to make it appear that I had entered on a red light.

15 There was a yellow light for three seconds after this happened and I
proceeded to the center of the intersection before the light turned red. At
16 about this time Officer Rossi, who was waiting around the corner and out
of sight at the next intersection a block away, upon a signal from the driver
17 who blocked my right of way, suddenly appeared and followed me out of
the intersection, where I was cited. There was no marked police vehicle in
18 sight when I entered the intersection. . . .

19 I believe that Mr. Capilla and other police officers were annoyed
by my continued presence of several years in Red Bluff as a homeless
20 person who slept in a vehicle, although I was never accused by anyone of
doing anything illegal until the day of the citation. Mr. Capilla is no
longer Chief of Police in Red Bluff.

21 Mr. Martin Perrone, who claimed to be an investigator for the
Tehama DA Office, approached me one day in August 2007 while I was in
22 Riverside Park in my car and told me that he was conducting a "sweep" of
the park (all by himself?) and he questioned me implying that I had been
23 drinking (alcohol) and after I denied this he realized when he saw a large
bag of recyclable aluminum cans in my car that I was not drinking at all
24 and left me alone. There were no other police in evidence at the time of
the sweep and I did not see Mr. Perrone approach anyone else. I often
25 wonder if Mr. Perrone may have been the scheduled prosecutor at the trial
mentioned above, and was only attempting to find out why I was still in
26 Red Bluff. There appears to be a close connection between Mr. Capilla,
Mr. Rossi, and Mr. Perrone.

1 than a sheer possibility that a defendant has acted unlawfully.” Id. (quoting Twombly, 550 U.S.
2 at 556). “Where a complaint pleads facts that are ‘merely consistent with’ a defendant’s liability,
3 it ‘stops short of the line between possibility and plausibility for entitlement to relief.’” Id.
4 (quoting Twombly, 550 U.S. at 557).

5 In deciding a Rule 12(b)(6) motion, the court generally may not consider materials
6 outside the complaint and pleadings. See Cooper v. Pickett, 137 F.3d 616, 622 (9th Cir. 1998);
7 Branch v. Tunnell, 14 F.3d 449, 453 (9th Cir. 1994). The court may, however, consider: (1)
8 documents whose contents are alleged in or attached to the complaint and whose authenticity no
9 party questions, see Branch, 14 F.3d at 454; (2) documents whose authenticity is not in question,
10 and upon which the complaint necessarily relies, but which are not attached to the complaint, see
11 Lee v. City of Los Angeles, 250 F.3d 668, 688 (9th Cir. 2001); and (3) documents and materials
12 of which the court may take judicial notice, see Barron v. Reich, 13 F.3d 1370, 1377 (9th Cir.
13 1994).

14 Finally, leave to amend must be granted “[u]nless it is absolutely clear that no
15 amendment can cure the defects.” Lucas v. Dep’t of Corr., 66 F.3d 245, 248 (9th Cir. 1995) (per
16 curiam); see also Lopez v. Smith, 203 F.3d 1122, 1126 (9th Cir. 2000) (en banc).

18 III. DISCUSSION

19 In their motion to dismiss, defendants argue, among other things the court should
20 abstain under the Rooker-Feldman doctrine from exercising jurisdiction. Under the Rooker-
21 Feldman abstention doctrine, lower federal courts lack jurisdiction to hear matters already
22 decided in state court. See Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923); District of
23 Columbia Court of Appeals v. Feldman, 460 U.S. 462 (1983). The doctrine applies in cases
24 “brought by state court losers complaining of injuries caused by state court judgments rendered
25 before the district court proceedings commenced and inviting district court review and rejection
26 of those judgments.” Exxon Mobil Corp. v. Saudi Basic Industries Corp., 544 U.S. 280 (2005).

1 An exception, inapplicable here, would be where Congress expressly grants federal courts
2 jurisdiction to review state court judgments (such as habeas corpus, for example).

3 The court agrees. State court records defendants request the court to judicially
4 notice reveal the following timeline:¹

5 April 28, 2008	Plaintiff issued traffic citation no. 92938, by Red Bluff Police Department officer J. Rossi.
6 May 2, 2008	Plaintiff was notified by the Tehama County Superior Court 7 that he had an appearance date scheduled for June 2, 2008, 8 in relation to the pending traffic violation charge.
9 June 2, 2008	Plaintiff failed to appear.
10 June 13, 2008	Plaintiff telephoned the Tehama County Superior Court 11 asking for another appearance date and his case was re-set 12 to July 7, 2008.
13 July 7, 2008	Plaintiff failed to appear.
14 August 18, 2008	Plaintiff telephoned the court requesting another 15 continuance and his matter was re-set to September 8, 16 2008.
17 September 8, 2008	Plaintiff failed to appear.
18 February 6, 2009	After failing to appear three times, the state court convicted 19 plaintiff in absentia, increased his fine for failing to appear 20 on three prior occasions, and informed plaintiff that the Department of Motor Vehicles would be notified with a request for suspension of license pursuant to California Vehicle Code § 40509.5.
21 February 16, 2012	Plaintiff was granted amnesty under California Vehicle Code § 42008.7.

21 ///

22 ///

23 ¹ The court may take judicial notice pursuant to Federal Rule of Evidence 201 of
24 matters of public record. See U.S. v. 14.02 Acres of Land, 530 F.3d 883, 894 (9th Cir. 2008).
25 Thus, this court may take judicial notice of state court records, see Kasey v. Molybdenum Corp.
26 of America, 336 F.2d 560, 563 (9th Cir. 1964), as well as its own records, see Chandler v. U.S.,
378 F.2d 906, 909 (9th Cir. 1967). Here, defendants' request that the court judicially notice
state court records should be granted.

