



1 I. FACTUAL ALLEGATIONS AND PROCEDURAL BACKGROUND

2 From February 8, 2011 to March 5, 2011, Plaintiff was  
3 incarcerated in the Sacramento County Jail on an order of civil  
4 contempt, arising from a family court matter. SAC ¶ 9.  
5 Pursuant to California Penal Code ("CPC") § 4001, Defendant  
6 County "separated Plaintiff from inmates who were [awaiting]  
7 pending trials or serving sentences for criminal convictions."  
8 SAC ¶ 11. Plaintiff alleges that, "[a]s a proximate result of  
9 the de facto policy of discrimination against an inmate serving  
10 a civil commitment, Defendant County deprived Plaintiff of a  
11 humane environment" during his incarceration. SAC ¶ 24.  
12 Specifically, Plaintiff alleges that he was kept in a windowless  
13 cell along with "large bags of kitchen garbage," and was not  
14 provided time to exercise, shower, or "watch the news." SAC  
15 ¶¶ 15, 20.

16 Plaintiff also alleges that, on his first day in custody,  
17 he "went through the routine intake processing" at the jail,  
18 which included a medical interview. SAC ¶¶ 28-29. During this  
19 interview, Plaintiff disclosed a number of medical conditions  
20 including hypertension, acute sleep apnea, diabetes, and a  
21 history of strokes. SAC ¶ 30. Plaintiff was originally  
22 provided with blood pressure medication but, at some point  
23 during his incarceration, "Defendant County withdrew all  
24 medications from Plaintiff and deprived Plaintiff of access to a  
25 [sleep apnea] CPAP machine." SAC ¶ 36. Plaintiff alleges that  
26 Defendant knew or should have known that the failure to provide  
27 appropriate medical treatment "created a high risk of harm to  
28 Plaintiff." SAC ¶ 41.

1 Plaintiff was represented by Sean Gjerde ("Defendant  
2 Gjerde") in the above-mentioned family court matter. SAC ¶ 4.  
3 Defendant Gjerde's representation of Plaintiff is the subject  
4 matter of Plaintiff's second through sixth causes of action.  
5 However, as Defendant County's Motion to Dismiss only addresses  
6 Plaintiff's first cause of action, the facts of Defendant  
7 Gjerde's representation are not relevant to its motion and are  
8 not summarized here.

9  
10 II. OPINION

11 Plaintiff's only claim against the Defendant County  
12 alleges a "violation of [his] civil rights." SAC at 3.  
13 Although Plaintiff does not expressly invoke a statute, it is  
14 inferred that his claim is brought pursuant to 42 U.S.C. § 1983  
15 and takes the form of a § 1983 Monell claim. Monell v. Dep't of  
16 Soc. Servs. of City of New York, 436 U.S. 658, 691 (1978).

17 A municipality can be sued under § 1983, but "it cannot be  
18 held liable unless a municipal policy or custom caused the  
19 constitutional injury." Leatherman v. Tarrant Cnty. Narcotics  
20 Intelligence & Coordination Unit, 507 U.S. 163, 166 (1993). In  
21 order to state a claim for municipal liability under § 1983, a  
22 plaintiff must allege (1) that an official policy or custom  
23 existed; (2) that the plaintiff suffered constitutional injury;  
24 and (3) the existence of a causal link between the policy/custom  
25 and the plaintiff's injury. Id. Each of these elements must  
26 also be alleged with "sufficient particularity" and general or  
27 conclusory allegations will not suffice. See, e.g., Estate of  
28 Brooks ex rel. Brooks v. United States, 197 F.3d 1245, 1247 (9th

1 Cir. 1999) (approving the dismissal of a Monell claim, on the  
2 grounds that "the complaint did not allege a deliberate County  
3 policy with sufficient particularity").

4 Plaintiff argues, generally, that his civil rights were  
5 violated during his confinement in Sacramento County Jail. SAC  
6 ¶¶ 9-45. Plaintiff notes that the alleged "inhumane treatment  
7 . . . has two component parts." Opp. at 5. First, he alleges  
8 that he was deprived of appropriate medical care due to  
9 Defendant's failure to adequately train its employees. SAC  
10 ¶ 42. Second, he alleges that he was confined under inhumane  
11 conditions due to his status as a civil inmate. SAC ¶ 24.

12 A. Failure to Train Employees to Provide Medical Care

13 Defendant moves to dismiss the claim against it because  
14 Plaintiff has failed to allege sufficient facts to establish  
15 municipality liability for failure to adequately train its  
16 employees to provide Plaintiff with medical care. Mot. at 4.  
17 Defendant notes that both the SAC and Plaintiff's opposition  
18 brief "fail[] to explain the medical consequences of the  
19 County's alleged failure to provide him with his medications."  
20 Reply at 4. Plaintiff does not directly address this issue, but  
21 appears to argue that exposure to the *risk* of harm is sufficient  
22 to state a civil rights violation. Opp. at 3-4 (citing Helling  
23 v. McKinney, 509 U.S. 25 (1993)).

24 Defendant contends that Plaintiff has not specifically  
25 alleged any harm suffered as a result of Defendant's failure to  
26 provide him with adequate medical treatment. SAC ¶ 41.  
27 Plaintiff did allege that Defendant's employees failed to  
28 provide him access to his CPAP sleep apnea machine, and failed

1 to provide him with his blood pressure medication during his  
2 incarceration. SAC ¶ 36. However, Plaintiff merely alleged  
3 that "the deprivation of currently prescribed medications and  
4 medical equipment to Plaintiff created a *high risk of harm* to  
5 Plaintiff." SAC ¶ 41. Even taking this allegation as true,  
6 Plaintiff has not alleged any actual injury that resulted from  
7 the risk created by Defendant's employees. His conclusory  
8 allegation that that he "suffered injury to his person" is  
9 insufficient in this regard. Brooks, 197 F.3d at 1247.

10 Actual injury - or a *continuing* risk of harm - is a  
11 necessary element of a Monell claim. Leatherman, 507 U.S. at  
12 166; see also, Helling v. McKinney, 509 U.S. 25, 32-33 (1993)  
13 (holding that a prisoner had stated a cause of action for  
14 injunctive relief under the Eighth Amendment where he alleged  
15 that he was being exposed to a cellmate who smoked five packs of  
16 cigarettes per day). Since Plaintiff is no longer incarcerated,  
17 he cannot allege that he is currently being exposed to a  
18 continuing risk of harm (i.e., Defendant continues to deprive  
19 him of his medication). Plaintiff's failure to allege actual  
20 injury or a continuing risk of harm is fatal to his Monell  
21 claim, insofar as it is based on Defendant's failure to provide  
22 Plaintiff with proper medical care. For this reason, the Court  
23 does not need to address the parties' arguments as to whether  
24 Plaintiff has adequately alleged the remaining elements of his  
25 Monell claim for "failure to train" its employees in providing  
26 medical treatment, or for "deliberate indifference" to his  
27 medical needs. Mot. at 4-7; Opp. at 6-17.

28

1            B. Inhumane Treatment due to Classification as Civil Prisoner

2            Plaintiff has also alleged that he suffered constitutional  
3 harm due to the inhumane conditions of his confinement. SAC  
4 ¶ 24. Specifically, he claims that he was "not allowed regular  
5 exercise time, not allowed regular shower time, not allowed to  
6 watch the news," and was held in a windowless cell that was  
7 "being used to store large bags of kitchen garbage." SAC ¶¶ 14,  
8 20. Plaintiff alleges that that these deprivations were the  
9 "proximate result of the de facto policy of discrimination  
10 against an inmate serving a civil commitment." SAC ¶ 24.  
11 Plaintiff appears to be referring to California Penal Code  
12 § 4001. SAC ¶ 11. CPC § 4001 merely mandates that criminal and  
13 civil prisoners be "confined separately and distinctly."  
14 Notably, § 4001 does not address the conditions of confinement.  
15 Section 4001 is facially unrelated to the conditions of  
16 Plaintiff's confinement, and Plaintiff has failed to allege the  
17 requisite causal link between the official policy and the harm  
18 suffered. Leatherman, 507 U.S. at 166. His conclusory  
19 allegation that the conditions of his confinement were the  
20 "proximate result" of the official policy is insufficient.  
21 Brooks, 197 F.3d at 1247. Similarly, to the extent that  
22 Plaintiff's Monell claim is based on the *failure to follow*  
23 Defendant County's statement of "Mission and Goals," the causal  
24 link is missing: it cannot be said that an official policy is  
25 the "moving force" behind an injury caused by a violation of  
26 that policy. Monell, 436 U.S. at 694. The Court therefore  
27 finds that allegedly inhumane conditions of Plaintiff's  
28

1 incarceration cannot form the basis for Plaintiff's Monell  
2 claim.

3 For these reasons, Plaintiff's first cause of action is  
4 insufficient to state a Monell claim. Neither of the "two  
5 component parts" of Plaintiff's alleged mistreatment is  
6 sufficient grounds for his § 1983 action against Defendant  
7 County. Opp. at 5. Plaintiff's remaining arguments are  
8 foreclosed by Plaintiff's failure to allege any actual harm  
9 resulting from the deprivation of medical treatment, and by  
10 Plaintiff's failure to allege a causal nexus between an official  
11 policy and the conditions of his confinement.

12 Defendant's Motion to Dismiss Plaintiff's first cause of  
13 action is GRANTED. As amendment of the complaint would not  
14 necessarily be futile, the motion is GRANTED WITH LEAVE TO  
15 AMEND. Eminence Capital, L.L.C. v. Aspeon, Inc., 316 F.3d 1048,  
16 1052 (9th Cir. 2003).

17  
18 III. ORDER

19 The Court GRANTS WITH LEAVE TO AMEND Defendant County's  
20 Motion to Dismiss Plaintiff's first cause of action. Plaintiff's  
21 Third Amended Complaint must be filed within twenty days from  
22 the date of this Order. Defendant's responsive pleading is due  
23 within twenty days thereafter. If Plaintiff elects not to file  
24 a Third Amended Complaint, the case will proceed without  
25 Defendant County.

26 IT IS SO ORDERED.

27 Dated: October 7, 2014