UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

RYAN J. DUERST,

Plaintiff,

v.

PLACER COURT, ET AL.,

Defendants.

No. 2:14-cv-1774-GEB-AC

FINDINGS & RECOMMENDATIONS

Plaintiff, proceeding in this action pro se and in forma pauperis, has filed a first amended complaint ("FAC"), ECF No. 6, after his original pleading was dismissed as vague and conclusory. See ECF No. 5 (previous screening order). The federal in forma pauperis statute authorizes federal courts to dismiss a case if the action is legally "frivolous or malicious," fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2).

A claim is legally frivolous when it lacks an arguable basis either in law or in fact. Neitzke v. Williams, 490 U.S. 319, 325 (1989); Franklin v. Murphy, 745 F.2d 1221, 1227-28 (9th Cir. 1984). The court may, therefore, dismiss a claim as frivolous where it is based on an indisputably meritless legal theory or where the factual contentions are clearly baseless. Neitzke, 490 U.S. at 327. A complaint, or portion thereof, should only be dismissed for failure to state a claim upon which relief may be granted if it appears beyond doubt that plaintiff can prove no set

of facts in support of the claim or claims that would entitle him to relief. Hishon v. King & Spalding, 467 U.S. 69, 73 (1984) (citing Conley v. Gibson, 355 U.S. 41, 45–46 (1957)); Palmer v. Roosevelt Lake Log Owners Ass'n, 651 F.2d 1289, 1294 (9th Cir. 1981). In reviewing a complaint under this standard, the court must accept as true the allegations of the complaint in question, Hospital Bldg. Co. v. Rex Hosp. Trustees, 425 U.S. 738, 740 (1976), construe the pleading in the light most favorable to the plaintiff, and resolve all doubts in the plaintiff's favor, Jenkins v. McKeithen, 395 U.S. 411, 421 (1969).

Plaintiff's claims seem to arise out of his divorce proceedings, during which the court ordered him to pay spousal support to his ex-wife. ECF No. 6 at 55. Plaintiff claims that he was sanctioned approximately $21,500 in a related civil matter for disputing the court's jurisdiction. Id. Plaintiff alleges that as a result of these financial burdens he has lost his house, where he provided in home class services for his disabled child. Id. at 11, 47, 77. Based on this series of events plaintiff, claims that defendants have violated the Americans with Disabilities Act ("ADA") and the Individuals with Disabilities Education Act ("IDEA"). Id. Plaintiff also claims that defendants Judge Allen V. Pineschi, Judge Mark S. Curry, Judge Francis Kearney, Judge Angus Saint-Evens, Judge Thomas E. Warriner, and Commissioner Dirk Amara ("Judicial Defendants") lacked jurisdiction in his civil and divorce matters. Id. at 22–24. Because the Judicial Defendants lacked jurisdiction in his civil and divorce matters, plaintiff claims that they do not benefit from judicial immunity. Id. Plaintiff also brings 1983 claims against all defendants based on their lack of jurisdiction and alleged conspiracies and conflicts of interest.[1] Id. at 32–37, 47–48, 52. Additionally, plaintiff claims that the Judicial Defendants have committed fraud upon the court by knowingly adjudicating his cases without jurisdiction. Id. at 38–41. Finally, plaintiff claims that defendant Commissioner Amara violated his First Amendment rights when he sanctioned him for refusing to remove information concerning an

[1] Plaintiff brings claims against the non-judicial defendants under the ADA and the IDEA, due process clause and 42 U.S.C. § 1983, and for fraud, based on the allegation that they failed to prevent or enabled the conduct of the Judicial Defendants. ECF No. 26 at 127–30, 137–38, 148–50, 156–58, 164–67, 173–76. However, as the court will explain, the Judicial Defendants' conduct is protected by judicial immunity.

ongoing civil case from his Facebook page. Id. at 9, 103–06.

When a plaintiff appears pro se in a civil rights case, "the court must construe the pleadings liberally and must afford plaintiff the benefit of any doubt." Karim-Panahi v. Los Angeles Police Dep't., 839 F.2d 621, 623 (9th Cir.1988). When interpreting the pleadings liberally, however, the court "may not supply essential elements of the claim that were not initially pled." Ivey v. Bd. of Regents of Univ. of Alaska, 673 F.2d 266, 268 (9th Cir. 1982). Additionally, a court need not accept as true unreasonable inferences, unwarranted deductions of fact, or conclusory legal allegations cast in the form of factual allegations. See Adams v. Johnson, 355 F.3d 1179, 1183 (9th Cir. 2004). Before the court can dismiss a pro se civil rights complaint for failure to state a claim, the court must give the plaintiff a "statement of the complaint's deficiencies." Karim-Panahi, 839 F.2d at 623. Moreover, a pro se litigant "must be given leave to amend his or her complaint unless it is absolutely clear that the deficiencies of the complaint could not be cured by amendment." Id. at 623 (citation omitted).

Federal Rule of Civil Procedure 8(a)(2) requires that the complaint contain "a short and plain statement of the claim showing that the pleader is entitled to relief, in order to give the defendant fair notice of what the . . . claim is and the grounds upon which it rests." Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007) (citations omitted). Rule 8(d)(1) states "[e]ach allegation must be simple, concise, and direct." The claim for relief must be "plausible on its face," meaning that the "factual content [ ] allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (citation omitted). Lengthy complaints can violate Rule 8 if a defendant would have difficulty responding to the complaint. Cafasso, U.S. ex rel. v. Gen. Dynamics C4 Sys., Inc., 637 F.3d 1047, 1059 (9th Cir. 2011). Furthermore, while a pro se plaintiff should generally be given leave to amend, "federal courts are far less charitable when one or more amended pleadings already have been filed with no measurable increase in clarity." 5 Charles Alan Wright & Arthur R. Miller, Federal Practice and Procedure § 1217 (3d ed. 2004); see also Schmidt v. Herrmann, 614 F.2d 1221, 1224 (9th Cir. 1980) (affirming dismissal of second amended complaint with prejudice where pleading consisted of "confusing, distracting, ambiguous, and unintelligible"

allegations in violation of Rule 8).

Plaintiff's FAC does not even minimally comply with the standards set forth in Rule 8. Plaintiff's claims are not short and plain statements, nor are they simple, concise or direct. See Twombly, 550 U.S. at 555. Plaintiff's FAC is 194 pages long, single-spaced, and often repeats itself. The allegations are sufficiently confusing that defendants would have difficulty responding to the complaint.

Even more fundamentally, plaintiff's claims are barred by judicial immunity.[2] "Like other forms of official immunity, judicial immunity is an immunity from suit, not just from ultimate assessment of damages." Mireles v. Waco, 502 U.S. 9, 11 (1991). Judicial immunity is overcome only when a judges actions are either (1) nonjudicial in nature, i.e., not taken in the judge's judicial capacity, Forrester v. White, 484 U.S. 219, 227–29 (1988); or (2) taken in the complete absence of all jurisdiction, Stump v. Sparkman, 435 U.S. 349, 356–57 (1991). Plaintiff contends that immunity does not apply here because the actions of the Judicial Defendants were taken in the absence of jurisdiction. ECF No. 26 at 22–23. Plaintiff seems to be alleging that the Judicial Defendants' willful and malicious violation of the law robbed them of jurisdiction. Id. at 35–37. However, "[a]llegations of malice or bad faith in the execution of the officer's duties are insufficient to sustain the complaint when the officer possesses absolute judicial immunity." Demoran v. Witt, 781 F.2d 155, 158 (9th Cir. 1985). Plaintiff also alleges that the Judicial Defendants lacked jurisdiction because they did not meet California's continuing education requirements. ECF No. 26 at 60. Plaintiff cites no authority for the proposition that judges must meet California's continuing education requirements to have jurisdiction in a case. There is no such requirement. The court finds that the Judicial Defendants are absolutely immune from suit because their conduct involved the adjudication of matters properly before them in the course of their judicial duties.

The court granted plaintiff leave to amend with instructions on how to amend his

[2] Although plaintiff asserts a number of claims against a number of different defendants, all of his claims lie against judicial officers or those court administrators who he considers to be their supervisors/superiors. See ECF No. 26 at 1, 137–38, 148–50, 156–58, 164–67, 173–76. All claims arise directly or indirectly from the immunized conduct of judicial officers.

complaint in compliance with Rule 8. Nonetheless, the FAC still fails to allege facts sufficient to state a claim against any defendants. As plaintiff has had ample opportunity to correct the deficiencies in his complaint, and he continues to make conclusory allegations which the court previously advised plaintiff are insufficient, the court finds that any further attempt to amend would be futile. Even if plaintiff were able to conform his pleading to the requirements of Rule 8, the claims are barred by judicial immunity. That defect cannot be cured by amendment.

Plaintiff's complaint also requests that this court (1) require Placer County Superior Court to immediately stay his civil and divorce proceedings, and (2) confiscate materials related to his cases. ECF No. 26 at 190–94. Plaintiff does not cite, and the court is not aware of, any legal basis for this court's intervention in ongoing state actions related to domestic relations, or for the confiscation of documents under these circumstances. Quite to the contrary, federal courts generally may not interfere with ongoing state court matters. Younger v. Harris, 401 U.S. 37 (1971) (federal courts should abstain from interference with pending state court proceedings); H.C. ex rel Gordon v. Koppel, 203 F.3d 610, 613 (9th Cir. 2000) (applying Younger where plaintiffs sought district court intervention in ongoing state domestic dispute regarding child custody). The undersigned will therefore recommend that plaintiff's request for preliminary injunctive relief be denied.

In accordance with the above, IT IS HEREBY RECOMMENDED that:

1. Plaintiff's request for preliminary injunctive relief be denied; and

2. Plaintiff's first amended complaint be dismissed without leave to amend.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within fourteen days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Any response to the objections shall be filed and served within fourteen days after service of the objections. The parties are advised that failure to file objections within the specified time may waive the right to

////

appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

DATED: October 30, 2014

ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE