

1 To state a claim on which relief may be granted, the plaintiff must allege “enough facts to
2 state a claim to relief that is plausible on its face.” Bell Atlantic Corp. v. Twombly, 550 U.S. 544,
3 570 (2007). In considering whether a complaint states a cognizable claim, the court accepts as
4 true the material allegations in the complaint and construes the allegations in the light most
5 favorable to the plaintiff. Hishon v. King & Spalding, 467 U.S. 69, 73 (1984); Hosp. Bldg. Co. v.
6 Trustees of Rex Hosp., 425 U.S. 738, 740 (1976); Love v. United States, 915 F.2d 1242, 1245
7 (9th Cir. 1989). Pro se pleadings are held to a less stringent standard than those drafted by
8 lawyers. Haines v. Kerner, 404 U.S. 519, 520 (1972). However, the court need not accept as true
9 conclusory allegations, unreasonable inferences, or unwarranted deductions of fact. Western
10 Mining Council v. Watt, 643 F.2d 618, 624 (9th Cir. 1981).

11 The minimum requirements for a civil complaint in federal court are as follows:

12 A pleading which sets forth a claim for relief . . . shall contain (1) a
13 short and plain statement of the grounds upon which the court’s
14 jurisdiction depends . . . , (2) a short and plain statement of the
claim showing that the pleader is entitled to relief, and (3) a demand
for judgment for the relief the pleader seeks.

15 FED. R. CIV. P. 8(a).

16 Here, liberally construed, plaintiff’s third amended complaint alleges that defendants
17 Kathleen Fritzche, Harold Penny and Corey Johnson—City of Sacramento police officers—were
18 aware that plaintiff’s father was at risk for suicide when they arrested him and did not notify staff
19 at the Sacramento County Jail. Plaintiff’s father later committed suicide while jailed at the
20 Sacramento County Jail.¹ The third amended complaint also alleges that the Sacramento County
21 Jail failed to provide inmates, including plaintiff’s father, with adequate mental health care and
22 was aware that its mental healthcare was deficient resulting in injury and death to its inmates.

23 Based on the allegations found in the third amended complaint, the undersigned finds that
24 the third amended complaint states cognizable claims against Kathleen Fritzche, Harold Penny,

25 ¹ Under California law, “a cause of action for . . . a person is not lost by reason of the person’s
26 death, but survives . . .” CAL. CODE CIV. PRO. § 377.20(a). “A cause of action that survives the
27 death of the person entitled to commence an action or proceeding passes to the decedent’s
28 successor in interest, subject to [the California Probate Code] . . . , and an action may be
commenced by the decedent’s personal representative or, if none, by the decedent’s successor in
interest.” CAL. CODE CIV. PRO. § 377.30.

1 Corey Johnson and the Sacramento County Jail. In this regard, if the allegations of the third
2 amended complaint are proven, plaintiff has a reasonable opportunity to prevail on the merits of
3 those claims in this action.

4 Accordingly, IT IS HEREBY ORDERED that:

5 1. The Clerk of the Court is directed to issue process and to send plaintiff an
6 instruction sheet for service of process by the United States Marshal, four USM-285 forms, a
7 summons form, and an endorsed copy of plaintiff's third amended complaint filed July 1, 2016.
8 (ECF No. 11.)

9 2. Within thirty (30) days after this order is served, plaintiff shall submit to the
10 United States Marshal four properly completed USM-285 forms, four properly completed
11 summons forms, and the number of copies of the endorsed third amended complaint and of this
12 order required by the United States Marshal; the required documents shall be submitted directly
13 to the United States Marshal either by personal delivery or by mail to: United States Marshals
14 Service, 501 I Street, Suite 5600, Sacramento, CA 95814 (tel. 916-930-2030).

15 3. Within ten (10) days after submitting the required materials to the United States
16 Marshals Service, plaintiff shall file with this court a declaration stating the date on which
17 plaintiff submitted the required documents to the United States Marshal. Failure to file the
18 declaration in a timely manner may result in an order imposing appropriate sanctions.

19 4. Within thirty (30) days after receiving the necessary materials from plaintiff,
20 the United States Marshal is directed to serve process on defendants Kathleen Fritzche, Harold
21 Penny, Corey Johnson and the Sacramento County Jail, without prepayment of costs.

22 5. The Clerk of the Court is directed to serve a copy of this order on the United
23 States Marshal.

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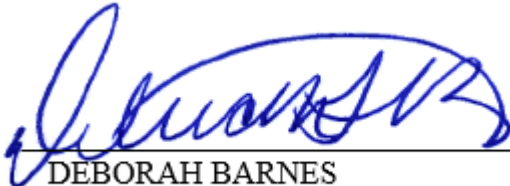
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6. Plaintiff is cautioned that the failure to comply with this order may result in a recommendation that this action be dismissed.

Dated: November 29, 2016



DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

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