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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID RAY WILLIAMS,
Plaintiff,
v.
PEOPLE OF THE STATE OF
CALIFORNIA, et al.,
Defendants.

No. 2:15-cv-0741 MCE CKD P

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding without counsel. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983, and is proceeding in forma pauperis. On May 18, 2015, plaintiff’s complaint was dismissed with leave to file an amended complaint. Plaintiff’s amended complaint is now before the court.

The court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1), (2).

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1 A claim is legally frivolous when it lacks an arguable basis either in law or in fact.
2 Neitzke v. Williams, 490 U.S. 319, 325 (1989); Franklin v. Murphy, 745 F.2d 1221, 1227-28 (9th
3 Cir. 1984). The court may, therefore, dismiss a claim as frivolous where it is based on an
4 indisputably meritless legal theory or where the factual contentions are clearly baseless. Neitzke,
5 490 U.S. at 327. The critical inquiry is whether a constitutional claim, however inartfully
6 pleaded, has an arguable legal and factual basis. See Jackson v. Arizona, 885 F.2d 639, 640 (9th
7 Cir. 1989); Franklin, 745 F.2d at 1227.

8 A complaint, or portion thereof, should only be dismissed for failure to state a claim upon
9 which relief may be granted if it appears beyond doubt that plaintiff can prove no set of facts in
10 support of the claim or claims that would entitle him to relief. Hishon v. King & Spalding, 467
11 U.S. 69, 73 (1984) (citing Conley v. Gibson, 355 U.S. 41, 45-46 (1957)); Palmer v. Roosevelt
12 Lake Log Owners Ass'n, 651 F.2d 1289, 1294 (9th Cir. 1981). In reviewing a complaint under
13 this standard, the court must accept as true the allegations of the complaint in question, Hospital
14 Bldg. Co. v. Rex Hosp. Trustees, 425 U.S. 738, 740 (1976), construe the pleading in the light
15 most favorable to the plaintiff, and resolve all doubts in the plaintiff's favor, Jenkins v.
16 McKeithen, 395 U.S. 411, 421 (1969).

17 In his amended complaint, plaintiff complains about actions taken by law enforcement
18 officials which ultimately resulted in plaintiff being placed in state prison.¹ Am. Compl. at 2. As
19 plaintiff was informed in the court's order dismissing his original complaint, when a state
20 prisoner challenges the legality of his custody and the relief he seeks is the determination of his
21 entitlement to an earlier or immediate release, his sole federal remedy is a writ of habeas corpus.
22 Preiser v. Rodriguez, 411 U.S. 475, 500 (1973). Furthermore, a prisoner cannot seek damages in
23 a 42 U.S.C. § 1983 action where a judgment in plaintiff's favor would imply the invalidity of
24 plaintiff's conviction or sentence. Heck v. Humphrey, 512 U.S. 477, 487 (1994). For these
25 reasons, plaintiff's amended complaint should be dismissed. Leave to amend a second time
26 should not be granted as it appears to be futile.

27 _____
28 ¹ Plaintiff also complains that his parents' Constitutional rights were violated. However,
plaintiff's parents are not named as plaintiffs in this action.

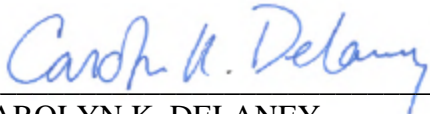
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In accordance with the above, IT IS HEREBY RECOMMENDED that:

1. Plaintiff’s amended complaint be dismissed; and
2. This case be closed.

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)(1). Within fourteen days after being served with these findings and recommendations, plaintiff may file written objections with the court. The document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” Plaintiff is 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: August 25, 2015



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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