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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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SYNETTA MCDANIELS,
individually and as
successor-in-interest to
Decedent CELESTINE ALLEN,

Plaintiff,

v.

COUNTY OF SAN JOAQUIN, a
municipal corporation; and
DOES 1-50, inclusive,

Defendants.

CIV. NO. 2:16-2007 WBS DB

MEMORANDUM AND ORDER RE: MOTION
TO DISMISS

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Plaintiff Synetta McDaniels brought this action against
defendants County of San Joaquin and Doe employees arising from
decedent Celestine Allen's death while incarcerated at San
Joaquin County jail. Defendants now move to dismiss plaintiff's
entire Complaint pursuant to Federal Rule of Civil Procedure
12(b)(6). (Docket No. 8.)

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1 I. Factual and Procedural History

2 The decedent allegedly was a diagnosed schizophrenic
3 and recovering cocaine addict incarcerated at San Joaquin County
4 jail. (Compl. ¶ 1 (Docket No. 1).) Plaintiff alleges defendants
5 were "aware that Decedent required supervision and/or life saving
6 medical treatment," but "failed to treat and/or monitor
7 Decedent." (Id. ¶ 15.) Decedent allegedly was found dead in her
8 cell in August 2015. (Id. ¶ 14.)

9 Plaintiff initiated this action in her individual
10 capacity and as decedent's successor-in-interest. She alleges
11 the following causes of action: (1) 42 U.S.C. § 1983 claim for
12 violation of decedent's and plaintiff's constitutional rights;
13 (2) Monell claim under section 1983; (3) wrongful death under
14 California Civil Procedure Code §§ 377.60-61; (4) negligence; (5)
15 and violation of California Government Code § 845.6. (See id.)

16 II. Discussion

17 On a motion to dismiss under Rule 12(b)(6), the court
18 must accept the allegations in the complaint as true and draw all
19 reasonable inferences in favor of the plaintiff. Scheuer v.
20 Rhodes, 416 U.S. 232, 236 (1974), overruled on other grounds by
21 Davis v. Scherer, 468 U.S. 183 (1984); Cruz v. Beto, 405 U.S.
22 319, 322 (1972). To survive a motion to dismiss, a plaintiff
23 must plead "only enough facts to state a claim to relief that is
24 plausible on its face." Bell Atl. Corp. v. Twombly, 550 U.S.
25 544, 570 (2007). "The plausibility standard is not akin to a
26 'probability requirement,' but it asks for more than a sheer
27 possibility that a defendant has acted unlawfully." Ashcroft v.
28 Iqbal, 556 U.S. 662, 678 (2009). "A claim has facial

1 plausibility when the plaintiff pleads factual content that
2 allows the court to draw the reasonable inference that the
3 defendant is liable for the misconduct alleged.” Id. Under this
4 standard, “a well-pleaded complaint may proceed even if it
5 strikes a savvy judge that actual proof of those facts is
6 improbable.” Twombly, 550 U.S. at 556.

7 “Threadbare recitals of the elements of a cause of
8 action, supported by mere conclusory statements, do not suffice.”
9 Iqbal, 556 U.S. at 678; see also Iqbal, 556 U.S. at 679 (“While
10 legal conclusions can provide the framework of a complaint, they
11 must be supported by factual allegations.”).

12 Plaintiff’s first two causes of action are brought
13 under 42 U.S.C. § 1983. In the first cause of action, plaintiff
14 alleges defendants violated her Fourteenth Amendment substantive
15 due process right to familial relationship, companionship, and
16 society with the decedent when defendants were deliberately
17 indifference to decedent’s medical needs.¹ (Compl. ¶ 26.) “The
18 right to familial association . . . is a fundamental liberty
19 interest protected under the substantive due process clause of
20 the Fourteenth Amendment.” Motley v. Smith, Civ. No. 1:15-905
21 DAD, 2016 WL 6988597, at *4 (E.D. Cal. Nov. 29, 2016) (citing
22 Rosenbaum v. Washoe County, 663 F.3d 1071, 1079 (9th Cir. 2012)).

23 The Due Process Clause of the Fourteenth Amendment
24 “guarante[es] more than fair process” and extends to “a

25
26 ¹ The Complaint also mentions the First and Fourth
27 Amendments. However, the Complaint lacks any factual allegation
28 regarding plaintiff’s free speech or freedom of association
rights and makes no mention of any search, seizure or invasion of
privacy that took place.

1 substantive sphere as well, 'barring certain government actions
2 regardless of the fairness of the procedures used to implement
3 them.'" County of Sacramento v. Lewis, 523 U.S. 833, 844 (1998).
4 "The touchstone of due process is protection of the individual
5 against arbitrary action of government," Wolff v. McDonnell, 418
6 U.S. 539, 558 (1974), and "only the most egregious official
7 conduct can be said to be 'arbitrary in the constitutional
8 sense,'" Lewis, 523 U.S. at 846 (quoting Collins v. City of
9 Harker Heights, 503 U.S. 115, 129 (1992)). Official conduct
10 rises to this level only if it "shocks the conscience." Id.
11 "Where actual deliberation is practical, then an [individual]'s
12 'deliberate indifference' may suffice to shock the conscience."
13 Wilkinson v. Torres, 610 F.3d 546, 554 (9th Cir. 2010).

14 The Complaint alleges that defendants were deliberately
15 indifferent when they "had been aware that Decedent required
16 supervision and/or life saving medical treatment" but "failed to
17 treat and/or monitor Decedent." (Compl. ¶ 15.) The Complaint
18 further alleges that defendants "subjected Plaintiff to their
19 wrongful conduct" and decedent's death "was the consequence of
20 defendants' reckless indifference for Decedent's serious medical
21 needs and wellbeing [sic]." (Id. ¶¶ 16, 27.) The Complaint
22 contains no factual allegations regarding any wrongful conduct or
23 deliberation by an individual actor, the decedent's "serious
24 medical needs," the circumstances surrounding why the decedent
25 needed "supervision and/or life saving medical treatment," or
26 defendants' awareness that the decedent was in need of life-
27 saving medical treatment. Plaintiff relies solely on legal
28 conclusions and conclusory statements, which are insufficient to

1 survive a motion to dismiss under Rule 12(b)(6). See Iqbal, 556
2 U.S. at 678-79.

3 In the second cause of action for Monell liability,
4 plaintiff alleges that the Doe defendants acted pursuant to
5 unconstitutional San Joaquin County customs, policies, and
6 practices. (Compl. ¶ 31.) A municipality can only be liable
7 under section 1983 "when execution of a government's policy or
8 custom, whether made by its lawmakers or by those whose edicts or
9 acts may fairly be said to represent official policy, inflicts
10 the injury." Monell v. Dep't of Soc. Servs. of the City of N.Y.,
11 436 U.S. 658, 693 (1978). "Since Iqbal, courts have repeatedly
12 rejected [] conclusory allegations that lack factual content from
13 which one could plausibly infer Monell liability." Via v. City
14 of Fairfield, 833 F. Supp. 2d 1189, 1196 (E.D. Cal. 2011) (citing
15 cases).

16 Plaintiff's Complaint contains only conclusory
17 allegations regarding defendant San Joaquin's customs, policies,
18 and procedures. The Complaint alleges defendant San Joaquin had
19 policies and customs of (1) failing to properly train concerning
20 the handling of "treatable life threatening conditions"; (2)
21 denying inmates access to appropriate "care for serious medical
22 needs"; (3) failing to properly train concerning the handling of
23 "persons with serious medical conditions at the County Jail"; (4)
24 "failing to properly investigate . . . incidents of the handling
25 [of] person with life threatening medical conditions"; (5)
26 ignoring "unconstitutional or unlawful law enforcement activity";
27 (6) allowing law enforcement officers to file incomplete and
28 inaccurate reports; (7) tolerating a "'code of silence' among law

1 enforcement officers"; and (8) tolerating inadequate procedures
2 for reviewing complaints of officer misconduct. (Compl. ¶¶ 31-
3 32.) Each alleged policy and custom is unsupported by any
4 factual allegations. Further, plaintiff fails to allege how any
5 of the purported practices, policies, or customs caused the
6 decedent's injury. See Telles v. City of Waterford, Civ. No.
7 1:10-982 AWI SKO, 2010 WL 5314360, at *4 (E.D. Cal. Dec. 20,
8 2010) ("[T]here are simply no details furnished about any
9 particular incident that indicate how Plaintiff's rights were
10 violated.").

11 Plaintiff concedes that the Complaint "lacks elaborate
12 details that support [plaintiff's] failure to discipline and
13 inadequate training claims," but argues that a relaxed pleading
14 standard applies to plaintiff's Monell claim because of the "pre-
15 discovery posture" of the case and allegations on the basis of
16 "information and belief" suffice. (Pl.'s Opp'n 10:14-11:15
17 (Docket No. 9).) However, "Rule 8 . . . does not unlock the
18 doors of discovery for a plaintiff armed with nothing more than
19 conclusions." Iqbal, 556 U.S. at 678-79. Absent factual
20 allegations regarding the customs, policies, and procedures of
21 defendant San Joaquin, plaintiff's Monell claim cannot survive.

22 Accordingly, the court must dismiss plaintiffs' first
23 two causes of action under 42 U.S.C. § 1983.

24 Plaintiff's third cause of action for wrongful death
25 lacks the requisite factual allegations as well. "The elements
26 of the cause of action for wrongful death are the tort
27 (negligence or other wrongful act), the resulting death, and the
28 damages, consisting of the pecuniary loss suffered by the heirs."

1 Quiroz v. Seventh Ave. Ctr., 140 Cal. App. 4th 1256, 1263 (6th
2 Dist. 2006). Negligence requires allegations that defendants
3 owed the decedent "a legal duty, that defendants breached that
4 duty, and that the breach proximately caused [decedent's]
5 injuries." Wiener v. Southcoast Childcare Ctrs., Inc., 32 Cal.
6 4th 1138, 1145 (2004).

7 As previously stated, the Complaint fails to allege any
8 specific wrongful conduct by defendants, let alone conduct that
9 the court could reasonably infer constitutes negligence. In the
10 Complaint, plaintiff merely alleges that defendants' "negligent
11 actions and/or negligent failure to act, as set forth herein-
12 above proximately caused the death of decedent." (Compl. ¶ 38.)
13 Plaintiff's legal conclusion that defendants were negligent is
14 insufficient to survive a motion to dismiss. See Iqbal, 556 U.S.
15 at 678. Accordingly, the court must dismiss plaintiff's third
16 cause of action for wrongful death.

17 Defendants also move to dismiss plaintiff's fourth
18 cause of action for negligence. The fourth cause of action
19 suffers from the same deficiencies as the third cause of action
20 for wrongful death. Further, plaintiff withdrew this claim in
21 her opposition. (Pl.'s Opp'n 12:8-11.) Accordingly, the court
22 will dismiss plaintiff's fourth cause of action for negligence.

23 Plaintiff's fifth cause of action for violation of
24 California Government Code § 845.6 likewise lacks any factual
25 specificity. Under section 845.6, a public entity may be liable
26 if an employee is acting within the scope of his employment and
27 "knows or has reason to know that the prisoner is in need of
28 immediate medical care and he fails to take reasonable action to

1 summon such medical care." Cal. Gov't Code § 845.6. Plaintiff
2 again relies on legal conclusions that defendants "knew or had
3 reason to know that Decedent was in need of immediate and higher
4 level medical care, treatment, observation and monitoring" in
5 order to support her claim. (Compl. ¶ 47.) The Complaint is
6 devoid of factual allegations regarding the circumstances
7 surrounding the decedent's alleged need for immediate medical
8 care, the actions of any jail employees, and whether an employee
9 was acting within the scope of his employment. Accordingly, the
10 court must dismiss plaintiff's fifth cause of action under
11 California Government Code § 845.6.

12 IT IS THEREFORE ORDERED that defendant's Motion to
13 dismiss all causes of action be, and the same hereby is, GRANTED.

14 Plaintiff has fourteen days from the date this Order is
15 signed to file a First Amended Complaint, if she can do so
16 consistent with this Order.

17 Dated: March 7, 2017



18 WILLIAM B. SHUBB
19 UNITED STATES DISTRICT JUDGE
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