

1 § 1915A(a). The court must identify cognizable claims or dismiss the complaint, or any portion
2 of the complaint, if the complaint “is frivolous, malicious, or fails to state a claim upon which
3 relief may be granted,” or “seeks monetary relief from a defendant who is immune from such
4 relief.” *Id.* § 1915A(b).

5 A pro se plaintiff, like other litigants, must satisfy the pleading requirements of Rule 8(a)
6 of the Federal Rules of Civil Procedure. Rule 8(a)(2) “requires a complaint to include a short and
7 plain statement of the claim showing that the pleader is entitled to relief, in order to give the
8 defendant fair notice of what the claim is and the grounds upon which it rests.” *Bell Atl. Corp. v.*
9 *Twombly*, 550 U.S. 544, 554, 562-563 (2007) (citing *Conley v. Gibson*, 355 U.S. 41 (1957)).
10 While the complaint must comply with the “short and plain statement” requirements of Rule 8,
11 its allegations must also include the specificity required by *Twombly* and *Ashcroft v. Iqbal*, 556
12 U.S. 662, 679 (2009).

13 To avoid dismissal for failure to state a claim a complaint must contain more than “naked
14 assertions,” “labels and conclusions” or “a formulaic recitation of the elements of a cause of
15 action.” *Twombly*, 550 U.S. at 555-557. In other words, “[t]hreadbare recitals of the elements of
16 a cause of action, supported by mere conclusory statements do not suffice.” *Iqbal*, 556 U.S. at
17 678.

18 Furthermore, a claim upon which the court can grant relief must have facial plausibility.
19 *Twombly*, 550 U.S. at 570. “A claim has facial plausibility when the plaintiff pleads factual
20 content that allows the court to draw the reasonable inference that the defendant is liable for the
21 misconduct alleged.” *Iqbal*, 556 U.S. at 678. When considering whether a complaint states a
22 claim upon which relief can be granted, the court must accept the allegations as true, *Erickson v.*
23 *Pardus*, 551 U.S. 89 (2007), and construe the complaint in the light most favorable to the
24 plaintiff, *see Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974).

25 **III. Screening Order**

26 The court has reviewed plaintiff’s complaints (ECF Nos. 1, 15) pursuant to § 1915A and
27 finds that this action must be dismissed without leave to amend. Plaintiff alleges that he is being
28 denied a speedy trial in the Superior Court of California, County of San Joaquin, and requests that

1 the case against plaintiff be dismissed and that plaintiff be compensated for his pain and
2 suffering. ECF No. 1 at 3-5; ECF No. 15 at 3. He names the superior court, the judge, and
3 several district attorneys and public defenders as defendants.

4 As a threshold matter, the complaint fails to name a proper defendant for a § 1983 lawsuit.
5 The superior court is not a “person” within the meaning of § 1983, and arms of the state, such as
6 the courts, are immune from suit under the Eleventh Amendment. *Simmons v. Sacramento*
7 *County Superior Court*, 318 F.3d 1156, 1161 (9th Cir. 2003). Moreover, judges are absolutely
8 immune from damage actions for judicial acts taken within the jurisdiction of their courts,
9 *Schucker v. Rockwood*, 846 F.2d 1202, 1204 (9th Cir. 1988) (per curiam), and state prosecutors
10 have absolute prosecutorial immunity for acts taken in their official capacity, *Kalina v. Fletcher*,
11 522 U.S. 118, 123–24 (1997); *Buckley v. Fitzsimmons*, 509 U.S. 259, 269–70 (1993); *Imbler v.*
12 *Pachtman*, 424 U.S. 409, 427, 430–31 (1976). In addition, plaintiff’s court-appointed attorneys
13 cannot be sued under § 1983. *See Polk County v. Dodson*, 454 U.S. 312, 318-19 (1981) (public
14 defenders do not act under color of state law for purposes of § 1983 when performing a lawyer’s
15 traditional functions).

16 This action is also subject to dismissal because this court cannot provide plaintiff with the
17 injunctive relief he seeks. As a matter of comity, federal courts may not enjoin pending state
18 criminal proceedings except under extraordinary circumstances. *Younger v. Harris*, 401 U.S. 37,
19 49, 53 (1971). No extraordinary circumstances are alleged in this case. If, on the other hand,
20 plaintiff’s state criminal proceedings have already concluded, this court would still be unable to
21 “dismiss[] the case against [him]” because federal courts lack jurisdiction to review or modify
22 state court judgments. ECF No. 1 at 3; *see Rooker v. Fidelity Trust Company*, 263 U.S. 413
23 (1923); *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 482 (1983). “[L]ower
24 federal courts do not have jurisdiction to review a case litigated and decided in state court; only
25 the United States Supreme Court has jurisdiction to correct state court judgments.” *Gottfried v.*
26 *Medical Planning Services*, 142 F.3d 326, 330 (6th Cir.), *cert. denied*, 525 U.S. 1041, 119 S.Ct.
27 592 (1998); *see also Bianchi v. Rylaarsdam*, 334 F.3d 895, 901 (9th Cir. 2003) (“Stated plainly,
28 *Rooker—Feldman* bars any suit that seeks to disrupt or ‘undo’ a prior state-court judgment,

1 regardless of whether the state-court proceeding afforded the federal-court plaintiff a full and fair
2 opportunity to litigate her claims.”).

3 For these reasons, plaintiff’s complaints must be dismissed without leave to amend. *See*
4 *Gardner v. Martino*, 563 F.3d 981, 990 (9th Cir. 2009); *Silva v. Di Vittorio*, 658 F.3d 1090, 1105
5 (9th Cir. 2011) (“Dismissal of a pro se complaint without leave to amend is proper only if it is
6 absolutely clear that the deficiencies of the complaint could not be cured by amendment.”
7 (internal quotation marks omitted)); *Doe v. United States*, 58 F.3d 494, 497 (9th Cir. 1995) (“[A]
8 district court should grant leave to amend even if no request to amend the pleading was made,
9 unless it determines that the pleading could not be cured by the allegation of other facts.”).

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. Plaintiff’s request to proceed in forma pauperis (ECF Nos. 2 & 5) is granted.
- 12 2. Plaintiff shall pay the statutory filing fee of \$350. All payments shall be collected
13 in accordance with the notice to the California Department of Corrections and
14 Rehabilitation filed concurrently herewith.
- 15 3. The complaints are dismissed and the Clerk is directed to close the case.

16 Dated: October 16, 2017.

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18 EDMUND F. BRENNAN
19 UNITED STATES MAGISTRATE JUDGE
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