

1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF CALIFORNIA
4

5 LUIS ALBERTO MENDEZ JIMENEZ,

6 Plaintiff,

7 v.

8 COUNTY OF SACRAMENTO; et al.,

9 Defendants.

No. 2:18-cv-00044-JAM-KJN

**ORDER GRANTING THE REGENTS'
MOTION FOR SUMMARY JUDGMENT ON
PLAINTIFFS' CLAIMS AGAINST
JAVIST AND SOKOLOV**

10
11 Plaintiff filed his complaint for damages against The
12 Regents of the University of California, Danielle Dass, Charlene
13 Williams, Gregory Sokolov, and Andrea Javist (together, the "JPS
14 Defendants") as well as the County of Sacramento and three county
15 deputies ("County"). Id. Plaintiff alleges that he suffered
16 injuries caused by Defendants' medical negligence and deliberate
17 indifference toward his constitutional rights while he was
18 detained in the county jail. Id.

19 The County, and the JPS Defendants filed separate motions
20 for summary judgment. JPS Defendants Mot. for Summ. J. ("JPS
21 Defendants Mot."), ECF No. 32; County Mot. for Summ. J. ("County
22 Mot."), ECF No. 33. On November 5, 2019, the Court held a
23 hearing on both motions. Minutes for November 5, 2019 Hearing,
24 ECF No. 44.

25 At the hearing, the Court granted the County's motion in
26 its entirety. The Court denied the JPS Defendants' motion for
27 summary judgment on Plaintiff's medical negligence claim and
28 Section 1983 claims against Dass and Williams. The Court also

1 took the JPS Defendants' motion for summary judgment on
2 Plaintiff's Section 1983 claim against Sokolov and Javist under
3 submission. For the reasons stated below, the Court now GRANTS
4 summary judgment on this claim against Javist and Sokolov.

5
6 I. OPINION

7 Plaintiff pled a section 1983 claim against Sokolov and
8 Javist, arguing their failure to provide adequate mental health
9 treatment to inmates constituted a violation of the Fourteenth
10 Amendment. Compl. ¶ 27. Plaintiff's opposition to the JPS
11 Defendants' summary judgment motion appears to conflate a section
12 1983 municipal liability with a section 1983 claim against public
13 officials acting in their individual capacity. JPS Defendants
14 Opp'n at 16. To the extent Plaintiff is asking the Court to
15 recognize a respondeat superior theory of municipal liability,
16 that request is denied. Neither municipalities nor public
17 officials acting in their official capacity can be held
18 vicariously liable under section 1983. Keates v. Koile, 883 F.3d
19 1228, 1242 (9th Cir. 2018). Because Plaintiff's complaint names
20 Sokolov and Javist as defendants in their individual capacity,
21 the Court treats his section 1983 claims against them as resting
22 on a theory of individual, supervisor liability. Id.
23 Supervisory officials violate section 1983 when they are
24 (1) personally involved in a constitutional deprivation, or
25 (2) if there is a "sufficient casual connection between the
26 supervisor's wrongful conduct and the constitutional violation.
27 Rodriguez v. Cty. of Los Angeles, 891 F.3d 776, 798 (9th Cir.
28 2018).

1 1. Personally Involved

2 The JPS Defendants argue “there is no evidence [Javist and
3 Sokolov] had any personal involvement in the alleged deprivation
4 of [Plaintiff’s] mental health care,” because they never saw
5 Plaintiff. JPS Defendants Reply at 7. Plaintiff does not
6 dispute this. See generally JPS Defendants Opp’n at 15-19.
7 Thus, neither Dr. Javist nor Ms. Sokolov can be “liable for any
8 personal involvement in the deprivation of [Plaintiff’s]
9 constitutional [violation]....” Redman v. San Diego, 942 F.2d
10 1435 (9th Cir. 1991) (finding the defendant could not be liable
11 for any personal involvement when he was not “personally
12 appraised” of the harm plaintiff was suffering).

13 2. Casual Connection

14 Even if not personally involved, a supervisor “may be
15 liable in his individual capacity for his own culpable action or
16 inaction in the training, supervision, or control of his
17 subordinates; for his acquiescence in the constitutional
18 deprivation; or for conduct that showed a reckless or callous
19 indifference to the rights of others.” Rodriguez, 891 F.3d at
20 798. “[A] plaintiff must show the supervisor breached a duty to
21 plaintiff which was the proximate cause of the injury.” Starr
22 v. Bacca, 652 F.3d 1202, 1207 (9th Cir. 2011). A plaintiff can
23 satisfy the causation element by showing a supervising defendant
24 “set[] in motion a series of acts by others or by knowingly
25 refus[ing] to terminate a series of acts by others, which [the
26 supervisor] knew or reasonably should have known would cause
27 others to inflict a constitutional injury.” Starr, 652 F.3d at
28 1207-08.

1 Plaintiff alleges the "absence of any real mental health
2 treatment options [under the supervision of Sokolov and Javist]
3 caused him to decompensate during his incarceration, and
4 ultimately led him to attempt suicide." JPS Defendants Opp'n at
5 18. Defendant argues Javist and Sokolov could not have caused
6 Plaintiff's injuries because "they did not breach a duty to
7 Plaintiff which was the proximate cause of the injury.
8 ...[Plaintiff] was not their patient and they owed him no duty."
9 JPS Defendants Reply at 7. The Court agrees.

10 Plaintiff never established that Dr. Sokolov and Ms. Javist
11 owed him a duty. Further, Plaintiff did not present any expert
12 evidence concluding that Dr. Sokolov and Ms. Javist caused his
13 suicide attempt or prevented him from receiving mental health
14 care during his detention. Plaintiff relies on the testimony of
15 witness Dr. Bruce Gage to support his causation conclusion. JPS
16 Opp'n 18-19. But as Defendants correctly point out, Dr. Gage
17 never reaches a causation conclusion. JPS Defendants Reply at 7.

18 Proximate cause is a question of fact for the jury, only if
19 it is possible "to raise a reasonable inference that the act
20 complained of was the proximate cause of the injury." Rexall
21 Drug Co. v. Nihill, 276 F.2d 637, 645 (9th Cir. 1960). Without
22 evidence supporting Plaintiff's conclusion of causation, a jury
23 cannot raise a reasonable inference as to that issue. Rather, a
24 jury would be left to speculate. Accordingly, Plaintiff has
25 failed to demonstrate that there is a genuine dispute of material
26 fact as to the element of causal connection with respect to
27 Sokolov and Javist's alleged individual liability under Section
28 1983. Summary judgment is granted in favor of these defendants.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

II. ORDER

For the reasons set forth above, the Court GRANTS summary judgment as to the Section 1983 claim against Defendants Sokolov and Javist.

IT IS SO ORDERED.

Dated: November 8, 2019



JOHN A. MENDEZ,
UNITED STATES DISTRICT JUDGE