

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

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

JAY J. RIDLEY,

No. 2:18-CV-0479-JAM-CMK-P

Plaintiff,

vs.

FINDINGS AND RECOMMENDATIONS

SCOTT JONES, et al.,

Defendants.

_____ /

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff’s complaint (Doc. 1).

The court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. See 28 U.S.C. § 1915A(a). The court must dismiss a complaint or portion thereof if it: (1) is frivolous or malicious; (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief from a defendant who is immune from such relief. See 28 U.S.C. § 1915A(b)(1), (2). Moreover, the Federal Rules of Civil Procedure require that complaints contain a “. . . short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). This means that claims must be stated simply, concisely, and directly. See McHenry v. Renne,

1 84 F.3d 1172, 1177 (9th Cir. 1996) (referring to Fed. R. Civ. P. 8(e)(1)). These rules are satisfied
2 if the complaint gives the defendant fair notice of the plaintiff's claim and the grounds upon
3 which it rests. See Kimes v. Stone, 84 F.3d 1121, 1129 (9th Cir. 1996). Because plaintiff must
4 allege with at least some degree of particularity overt acts by specific defendants which support
5 the claims, vague and conclusory allegations fail to satisfy this standard. Additionally, it is
6 impossible for the court to conduct the screening required by law when the allegations are vague
7 and conclusory.

8
9 **I. PLAINTIFF'S ALLEGATIONS**

10 Plaintiff names the following as defendants: (1) Scott Jones, the Sacramento
11 County Sheriff; (2) Hon. Sweet, a judge of California superior court; (3) Anne Marie Schubert,
12 a deputy district attorney; (4) Whitley, an officer with the California Highway Patrol; and
13 (5) Leavitt, also an officer with the California Highway Patrol.

14 Plaintiff alleges that, following his involvement in an auto accident on September
15 25, 2017, he was arrested and delivered to the Sacramento County Jail. Plaintiff states that he
16 was transported to the court a few days later at which point he was denied release on his own
17 recognizance and required to post bail, which plaintiff says was set unreasonably high. Plaintiff,
18 who is black, claims that his arrest was improper because defendants conspired to "cage my
19 person" in order to deprive him of equal protection. Plaintiff also claims that his arrest was
20 improper because it was not made pursuant to a warrant. Plaintiff seeks an order directing his
21 immediate release on his own recognizance.

22 ///

23 ///

24 ///

25 ///

26 ///

1 **II. DISCUSSION**

2 When a state prisoner challenges the legality of his custody and the relief he seeks
3 is a determination that he is entitled to an earlier or immediate release, such a challenge is not
4 cognizable under 42 U.S.C. § 1983 and the prisoner’s sole federal remedy is a petition for a writ
5 of habeas corpus. See Preiser v. Rodriguez, 411 U.S. 475, 500 (1973); see also Neal v. Shimoda,
6 131 F.3d 818, 824 (9th Cir. 1997); Trimble v. City of Santa Rosa, 49 F.3d 583, 586 (9th Cir.
7 1995) (per curiam). Thus, where a § 1983 action seeking monetary damages or declaratory relief
8 alleges constitutional violations which would necessarily imply the invalidity of the prisoner’s
9 underlying conviction or sentence, or the result of a prison disciplinary hearing resulting in
10 imposition of a sanction affecting the overall length of confinement, such a claim is not
11 cognizable under § 1983 unless the conviction or sentence has first been invalidated on appeal,
12 by habeas petition, or through some similar proceeding. See Heck v. Humphrey, 512 U.S. 477,
13 483-84 (1994) (concluding that § 1983 claim not cognizable because allegations were akin to
14 malicious prosecution action which includes as an element a finding that the criminal proceeding
15 was concluded in plaintiff’s favor); Butterfield v. Bail, 120 F.3d 1023, 1024-25 (9th Cir. 1997)
16 (concluding that § 1983 claim not cognizable because allegations of procedural defects were an
17 attempt to challenge substantive result in parole hearing); cf. Neal, 131 F.3d at 824 (concluding
18 that § 1983 claim was cognizable because challenge was to conditions for parole eligibility and
19 not to any particular parole determination); cf. Wilkinson v. Dotson, 544 U.S. 74 (2005)
20 (concluding that § 1983 action seeking changes in procedures for determining when an inmate is
21 eligible for parole consideration not barred because changed procedures would hasten future
22 parole consideration and not affect any earlier parole determination under the prior procedures).

23 Here, plaintiff’s claims relate to the fact or duration of his current custody, not the
24 conditions of that confinement and success on the merits of plaintiff’s claim and request for relief
25 would result in an immediate release from custody. For these reasons, the court finds that
26 plaintiff’s claims are not cognizable.

1 **III. CONCLUSION**

2 Because it does not appear possible that the deficiencies identified herein can be
3 cured by amending the complaint, plaintiff is not entitled to leave to amend prior to dismissal of
4 the entire action. See Lopez v. Smith, 203 F.3d 1122, 1126, 1131 (9th Cir. 2000) (en banc).

5 Based on the foregoing, the undersigned recommends that this action be dismissed
6 for failure to state a claim upon which relief can be granted under § 1983.

7 These findings and recommendations are submitted to the United States District
8 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days
9 after being served with these findings and recommendations, any party may file written
10 objections with the court. Responses to objections shall be filed within 14 days after service of
11 objections. Failure to file objections within the specified time may waive the right to appeal.
12 See Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

13
14 DATED: August 7, 2018

15 
16 **CRAIG M. KELLISON**
17 UNITED STATES MAGISTRATE JUDGE
18
19
20
21
22
23
24
25
26