



1 claims and dismiss any portion of the complaint that is frivolous or malicious, fails to state a  
2 claim upon which relief may be granted, or seeks monetary relief from a defendant who is  
3 immune from such relief. *See* 28 U.S.C. §§ 1915A(b)(1), (2).

4 A complaint must contain a short and plain statement that plaintiff is entitled to relief,  
5 Fed. R. Civ. P. 8(a)(2), and provide “enough facts to state a claim to relief that is plausible on its  
6 face,” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The plausibility standard does not  
7 require detailed allegations, but legal conclusions do not suffice. *See Ashcroft v. Iqbal*, 556 U.S.  
8 662, 678 (2009). If the allegations “do not permit the court to infer more than the mere  
9 possibility of misconduct,” the complaint states no claim. *Id.* at 679. The complaint need not  
10 identify “a precise legal theory.” *Kobold v. Good Samaritan Reg’l Med. Ctr.*, 832 F.3d 1024,  
11 1038 (9th Cir. 2016). Instead, what plaintiff must state is a “claim”—a set of “allegations that  
12 give rise to an enforceable right to relief.” *Nagrampa v. MailCoups, Inc.*, 469 F.3d 1257, 1264  
13 n.2 (9th Cir. 2006) (en banc) (citations omitted).

14 The court must construe a pro se litigant’s complaint liberally. *See Haines v. Kerner*, 404  
15 U.S. 519, 520 (1972) (per curiam). The court may dismiss a pro se litigant’s complaint “if it  
16 appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which  
17 would entitle him to relief.” *Hayes v. Idaho Corr. Ctr.*, 849 F.3d 1204, 1208 (9th Cir. 2017).  
18 However, ““a liberal interpretation of a civil rights complaint may not supply essential elements  
19 of the claim that were not initially pled.”” *Bruns v. Nat’l Credit Union Admin.*, 122 F.3d 1251,  
20 1257 (9th Cir. 1997) (*quoting Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982)).

### 21 **Analysis**

22 Plaintiff alleges that, in 2011, he filed a civil complaint against the California  
23 Correctional Peace Officer Association. ECF No. 16 at 10. Flores then began retaliating against  
24 him. *Id.* In 2018, plaintiff’s mother came to visit him in prison. *Id.* He alleges that Flores  
25 restricted his visitation time and made it obvious that all conversation between plaintiff and his  
26 mother was being recorded. *Id.* Plaintiff alleges that John Does 1 and 2 were responsible, on  
27 Flores’s orders, for restricting visitation time. *Id.* He alleges that John Does 3 and 4 were  
28 ordered by Flores to surveil and record plaintiff’s conversation with his mother. *Id.* These

1 allegations state a First Amendment retaliation claim against Flores. They do not, however, state  
2 a retaliation claim against any of the Doe defendants. Plaintiff does not allege that any of the  
3 “Doe” officers knew about his 2011 complaint or that they understood Flores’s orders to be  
4 retaliatory. Absence such allegations, the “Doe” officers cannot be said to have retaliated against  
5 plaintiff because of his protected conduct. *Rhodes v. Robinson*, 408 F.3d 559, 567-68 (9th Cir.  
6 2005).

7 Given that this is plaintiff’s third amended complaint, I find that further opportunity to  
8 amend is unwarranted.

9 Accordingly, it is ORDERED that the Clerk of Court shall assign a district judge to this  
10 action.

11 Further, it is RECOMMENDED that defendants John Doe 1, John Doe 2, John Doe 3, and  
12 John Doe 4 be DISMISSED. If this recommendation is adopted, the matter should be referred  
13 back to me so that I may initiate service on defendant Flores.

14 These recommendations will be submitted to the U.S. district judge presiding over the  
15 case under 28 U.S.C. § 636(b)(1)(B) and Local Rule 304. Within fourteen days of the service of  
16 these findings and recommendations, the parties may file written objections with the court and  
17 serve a copy on all parties. That document must be captioned “Objections to Magistrate Judge’s  
18 Findings and Recommendations.” The presiding district judge will then review the findings and  
19 recommendations under 28 U.S.C. § 636(b)(1)(C).

20  
21 IT IS SO ORDERED.

22 Dated: April 13, 2021

23   
24 JEREMY D. PETERSON  
25 UNITED STATES MAGISTRATE JUDGE  
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