



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 **II. Analysis**

22 Plaintiff raises three separate claims. First, he alleges that the named defendants have  
23 provided inadequate medical care by withholding nutritional supplements. ECF No. 17 at 3.  
24 Second, he alleges that in October of 2020, he was not properly treated for pain in his chest, arms,  
25 and legs. *Id.* at 4. Third, he alleges that in July or August of 2021, he was falsely imprisoned  
26 while he was out of prison and staying at an independent living facility. *Id.* at 5. These claims  
27 bear no factual or legal relation to each other. Moreover, none of the claims adequately alleges  
28 how any named defendant was responsible for the claimed violation of plaintiff’s rights. For

1 instance, with respect to his claim about supplements, plaintiff alleges only that “defendant  
2 Alameda and all defendants involved . . . refused to give me my dietary supplements . . . .” *Id.* at  
3 3. He neither alleges what involvement or responsibility any defendant had for his care, nor that  
4 any defendant understood his need for supplements. As such, his allegations do not state a claim  
5 for deliberate indifference. *See Jett v. Penner*, 439 F.3d 1091, 1096 (9th Cir. 2006) (“[An]  
6 inadvertent [or negligent] failure to provide adequate medical care alone does not state a claim  
7 under § 1983.”) (internal quotation marks omitted).

8 I find that further leave to amend is unwarranted. Plaintiff has had multiple opportunities  
9 to state a viable claim and has failed to do so.

10 Accordingly, it is ORDERED that:

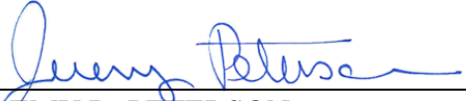
- 11 1. Plaintiff’s motion for extension of time, ECF No. 19, is denied as moot.<sup>1</sup>
- 12 2. The Clerk of Court is directed to assign a district judge to this action.

13 Further, I RECOMMEND that plaintiff’s third amended complaint, ECF No. 17, be  
14 dismissed with prejudice and without leave to amend for failure to state a claim.

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

21 IT IS SO ORDERED.

22  
23 Dated: December 13, 2021

24   
25 JEREMY D. PETERSON  
26 UNITED STATES MAGISTRATE JUDGE

27 \_\_\_\_\_  
28 <sup>1</sup> I have reviewed the motion for extension of time and nothing therein affects my  
analysis of plaintiff’s third amended complaint.

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