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UNITED STATES DISTRICT COURT

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EASTERN DISTRICT OF CALIFORNIA

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7 KYLE WILLIAMS,

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8 Plaintiff,

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9 v.

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10 YUBA CITY, et al.,

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11 Defendants.

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No. 2:22-cv-01750-JAM-CKD

**ORDER GRANTING DEFENDANTS'
MOTION TO DISMISS PLAINTIFF'S
SECOND AMENDED COMPLAINT**

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This matter is before the Court on Defendants Yuba City, Katheryn Danisan, D. Hauck, Enrique Jurado, Nico Mitchell, and Spencer Koski's (collectively, "Defendants") motion to dismiss Plaintiff Kyle Williams' ("Plaintiff") second amended complaint under Rule 12(b)(6) of the Federal Rules of Civil Procedure. Defs.' Mot. to Dismiss Pl.'s Second Am. Compl., ECF No. 26.

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For the reasons set forth below, the Court GRANTS Defendants' motion.¹

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I. ALLEGATIONS AND BACKGROUND

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The parties are intimately familiar with the allegations and procedural background of this case, which were included in the Court's previous Order on Defendant's motion to dismiss Plaintiff's first amended complaint ("FAC Order"). See FAC Order, ECF No. 22. The first and second amended complaints are

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¹This motion was determined to be suitable for decision without oral argument. E.D. Cal. L.R. 230(g).

1 substantially similar. Compare Second Am. Compl. ("SAC"), ECF
2 No. 23, with First Am. Compl. ("FAC"), ECF No. 14. However, the
3 following material allegation was added to the SAC: "[a]t the
4 preliminary hearing, Plaintiff's lawyer failed to call either
5 Jurado or Hauck as witnesses when the DA failed to call them
6 because he did not want to alert the DA to the planned trial
7 defense." SAC ¶ 8(d)(vii).

8 Like the FAC, Plaintiff's SAC asserts the following causes
9 of action under federal law: (1) excessive force; (2) malicious
10 prosecution; (3) right to a fair trial;² (4) false arrest;
11 (5) Equal Protection Clause violation; and (6) unconstitutional
12 deprivation of familial relations. See generally SAC. The only
13 claim Plaintiff did not reallege in the SAC is the Monell claim
14 against Yuba City regarding Plaintiff's vehicle. Compare SAC,
15 with FAC ¶¶ 78-82. Defendants now move to dismiss each claim.
16 Plaintiff opposed, Opp'n, ECF No. 27, and Defendants replied.
17 Reply, ECF No. 28.

18 II. REQUEST FOR JUDICIAL NOTICE

19 Defendants request four matters be judicially noticed under
20 Rule 201 of the Federal Rules of Evidence. Defs.' Req. for
21 Judicial Notice ("RJN"), ECF No. 26-2. The Court previously
22 took judicial notice of the first three matters in the FAC
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24 ²Plaintiff's third cause of action is entitled "42 U.S.C. § 1983-
25 Sixth Amendment Right to Fair Trial; Sixth Amendment Right to
26 Subpoena and Produce Evidence; Fourteenth Amendment Right to Due
27 Process; Fourth Amendment Unreasonable Seizure for Trial without
28 Due Process." SAC at 17:7-10. The Court will refer to this
cause of action as one for interference with Plaintiff's right to
a fair trial, even though Plaintiff asserts multiple claims
within. See id.

1 Order, which included (1) the Custody Order; (2) the Preliminary
2 Hearing Minute Order; and (3) that August 31, 2020, was a
3 Monday. FAC Order at 2. The fourth matter is the transcript
4 from Plaintiff's preliminary hearing on September 11, 2020.
5 RJN, ECF No. 26-2. Plaintiff does not object to Defendants'
6 request. See generally Opp'n.

7 As matters of public record whose authenticity is not
8 disputed, the Court takes judicial notice as requested. Lee,
9 250 F.3d at 689-90; Fed. R. Evid. 201(b). The Court only takes
10 judicial notice of the contents, or lack of contents, within the
11 documents noticed and not the truth of those contents. Lee, 250
12 F.3d at 690; see also In re Calder, 907 F.2d 953, 955 n.2 (10th
13 Cir. 1990) (taking judicial notice of the contents of bankruptcy
14 documents but not the truth of the content). For example, the
15 Court takes judicial notice of the presence or absence of
16 matters in the preliminary hearing transcript but not any
17 factual matters stated therein.

18 III. OPINION

19 A. Legal Standard

20 Dismissal is appropriate under Rule 12(b)(6) of the Federal
21 Rules of Civil Procedure when a plaintiff's allegations fail "to
22 state a claim upon which relief can be granted." Fed. R. Civ.
23 P. 12(b)(6). "To survive a motion to dismiss [under 12(b)(6)],
24 a complaint must contain sufficient factual matter, accepted as
25 true, to state a claim for relief that is plausible on its
26 face." Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (internal
27 quotation marks and citation omitted). While "detailed factual
28 allegations" are unnecessary, the complaint must allege more

1 than "[t]hreadbare recitals of the elements of a cause of
2 action, supported by mere conclusory statements." Id. In
3 considering a motion to dismiss for failure to state a claim,
4 the court generally accepts as true the allegations in the
5 complaint, construes the pleading in the light most favorable to
6 the party opposing the motion, and resolves all doubts in the
7 pleader's favor. Lazy Y Ranch LTD. v. Behrens, 546 F.3d 580,
8 588 (9th Cir. 2008). "In sum, for a complaint to survive a
9 motion to dismiss, the non-conclusory 'factual content,' and
10 reasonable inferences from that content, must be plausibly
11 suggestive of a claim entitling the plaintiff to relief." Moss
12 v. U.S. Secret Serv., 572 F.3d 962, 969 (9th Cir. 2009).

13 B. Analysis

14 1. Plaintiff's Claim for Excessive Force Under 42
15 U.S.C. Section 1983

16 The Court previously dismissed with prejudice Plaintiff's
17 first cause of action for excessive force. FAC Order at 9.
18 Plaintiff asserts it was included in the SAC solely to preserve
19 his right to appeal. Opp'n at 2; SAC at 14:7-11. This was
20 unnecessary. The Court also notes, however, that this claim has
21 been modified. Compare SAC ¶¶ 25-30, with FAC ¶¶ 25-29. To the
22 extent Plaintiff is attempting to reassert this claim, it is
23 once again dismissed with prejudice.

24 2. Plaintiff is Collaterally Estopped from
25 Relitigating the Issue of Probable Cause

26 Plaintiff's second, third, and fourth causes of action are
27 for false arrest or malicious prosecution. SAC ¶¶ 31-67; FAC
28 Order at 10-11; SAC at 17:7-10 (listing claims asserted within

1 the third cause of action); Opp'n at 8. Thus, Plaintiff must
2 properly allege the absence of probable cause. Dubner v. City &
3 Cnty. of S.F., 266 F.3d 959, 964 (9th Cir. 2001) (false arrest);
4 Freeman v. City of Santa Ana, 68 F.3d 1180, 1189 (9th Cir. 1995)
5 (malicious prosecution). Defendants argue the second, third,
6 and fourth causes of action fail because Plaintiff is
7 collaterally estopped from arguing the lack of probable cause in
8 this suit. Memo. of P. & A. ("Mot."), ECF No. 26-1 at 6.
9 Defendants are correct.

10 "[A] decision by a judge or magistrate to hold a defendant
11 to answer after a preliminary hearing constitutes prima facie-
12 but not conclusive-evidence of probable cause." Awabdy v. City
13 of Adelanto, 368 F.3d 1062, 1067 (9th Cir. 2004). "As a general
14 rule, each of [the] requirements [for collateral estoppel] will
15 be met when courts are asked to give preclusive effect to
16 preliminary hearing probable cause findings in subsequent civil
17 actions for false arrest and malicious prosecution." Wige v.
18 City of Los Angeles, 713 F.3d 1183, 1185 (9th Cir. 2013). A
19 finding of probable cause to stand trial is also a finding of
20 probable cause to arrest. McCutchen v. City of Montclair, 73
21 Cal. App. 4th 1138, 1145 (1999) (citing Haupt v. Dillard, 17
22 F.3d 285, 289 (1994)). The prima facie finding of probable
23 cause may be rebutted when a tactical reason prevents a criminal
24 defendant from having a "full and fair opportunity" to litigate
25 the issue at the preliminary hearing. McCutchen, 73 Cal. App.
26 4th at 1147; Haupt, 17 F.3d at 289; see also FAC Order at 12-13.

27 The Sutter County Superior Court found probable cause for
28 Plaintiff to stand trial during the preliminary hearing in

1 Plaintiff's prior criminal prosecution. Prelim. Hr'g Min.
2 Order, Exh. B to RJN, ECF No. 26-3 at 11-12. For this reason,
3 and since no exception to rebut the finding of probable cause
4 was alleged in the FAC, the Court previously dismissed
5 Plaintiff's false arrest and malicious prosecution claims. FAC
6 Order at 9-14.

7 Plaintiff contends the following allegation in the SAC
8 sufficiently pleads a "tactical reason" exception to collateral
9 estoppel: "[a]t the preliminary hearing, Plaintiff's lawyer
10 failed to call either Jurado or Hauck as witnesses when the DA
11 failed to call them because he did not want to alert the DA to
12 the planned trial defense." SAC ¶ 8(d)(vii); Opp'n at 9-12.

13 The Court disagrees. A failure to call two witnesses does not
14 demonstrate Plaintiff lacked a "full and fair opportunity" to
15 litigate the issue of probable cause. That Plaintiff may have
16 ultimately benefited from his failure is insufficient.

17 Plaintiff need not have litigated every issue affecting probable
18 cause for this Court to find he had a full and fair opportunity
19 to do so. As stated in the FAC Order, a state prosecutor is not
20 obligated to call every witness, and Plaintiff does not contend
21 he was prevented from calling witnesses and offering evidence
22 himself. FAC Order at 13. Since "a failure to take advantage
23 of the opportunity to litigate an issue will not preclude
24 collateral estoppel," Hoffman v. Gibson, No. 3:17-CV-00618-H-
25 BLM, 2017 WL 3457525, at *3 (S.D. Cal. Aug. 11, 2017), Plaintiff
26 has not alleged an exception. Indeed, Plaintiff contested the
27 issue of probable cause at the preliminary hearing when his
28 criminal defense counsel cross-examined all six of the

1 government's witnesses. Prelim. Hr'g Tr., Exh. C to RJN, ECF
2 No. 26-3 at 15.

3 Plaintiff offers several other reasons to support his
4 argument that he is not estopped from arguing the lack of
5 probable cause in this suit. Opp'n at 9-13. Some of these
6 arguments were previously rejected by the Court and are not
7 readdressed here. See FAC Order at 13-14. The remaining
8 arguments are unpersuasive and unsupported by legal authority.

9 First, Plaintiff argues he cannot be collaterally estopped
10 because the term "probable cause" was not used during the
11 preliminary hearing. Opp'n at 9. Plaintiff does not support
12 with legal authority that this specific phrase must be used to
13 create preclusive effect. Id. Second, Plaintiff alleges his
14 criminal defense attorney "had been denied access to significant
15 relevant police reports" at the preliminary hearing. SAC
16 ¶ 8(d)(vi). Plaintiff's citation to the preliminary hearing
17 transcript does not support this allegation. Id. (citing
18 Prelim. Hr'g Tr., Exh. C to RJN, ECF No. 26-3 at 17:15-26).
19 Nevertheless, this is not a recognized exception to collateral
20 estoppel. See FAC Order at 12-13. Lastly, Plaintiff disputes
21 the applicability of McCutchen given the conflicting holding in
22 Schmidlin v. City of Palo Alto, 157 Cal.App.4th 728 (2007),
23 which found preliminary hearing findings do not create
24 collateral estoppel effect for subsequent civil suits.
25 Overwhelming authority in the Ninth Circuit, however, has
26 followed McCutchen rather than Schmidlin. E.g., Patterson v.
27 City of Yuba City ("Patterson II"), 748 F. App'x 120, 121 (9th
28 Cir. 2018); Wige, 713 F.3d 1183. The California Supreme Court

1 also cited McCutchen in denying the Ninth Circuit's
2 certification request to resolve this divergence between the
3 appellate courts. Patterson II, 748 F. App'x at 121 n.1. Thus,
4 the Ninth Circuit "rel[ie]d] on McCutchen as a guide for how the
5 California Supreme Court would decide this case, rather than
6 Schmidlin" Id. This Court must too.

7 In sum, because Plaintiff has not sufficiently alleged an
8 exception, the Court finds Plaintiff is collaterally estopped
9 from relitigating the issue of probable cause in this suit.
10 Plaintiff's second, third, and fourth causes of action thus fail
11 to state a claim upon which relief can be granted and are once
12 again dismissed.

13 3. Whether Defendant Koski is Insulated by the
14 Presumption of Prosecutorial Independence is Moot

15 Defendant Koski moves to dismiss the second cause of action
16 for malicious prosecution on the ground that he is protected by
17 the presumption of prosecutorial independence. Mot. at 10. This
18 argument is moot given the preceding findings by the Court.

19 4. Plaintiff's Fifth Cause of Action Under the
20 Fourteenth Amendment's Equal Protection Clause
21 Fails to State a Claim Upon Which Relief Can be
22 Granted

23 Plaintiff's fifth cause of action alleges race-gender
24 discrimination under the Fourteenth Amendment's Equal Protection
25 Clause. SAC ¶¶ 68-82. This claim was previously dismissed for
26 several reasons, FAC Order at 16-17, and Plaintiff has not cured
27 those defects in the SAC. Instead, Plaintiff argues the
28 statistical disparities alleged in the SAC are sufficient to

1 maintain this claim. Opp'n at 15-17. While Plaintiff correctly
2 notes statistical disparities are relevant, Vill. of Arlington
3 Heights v. Metro. Hous. Dev. Corp., 429 U.S. 252, 265 (1977),
4 "racially discriminatory intent or purpose is required"
5 Id. at 265 (emphasis added). The allegations and statistical
6 disparities in the SAC, taken as true, do not equate to "an
7 intent or purpose to discriminate against the plaintiff based
8 upon membership in a protected class." Barren v. Harrington, 152
9 F.3d 1193, 1194 (9th Cir. 1998).

10 Therefore, this claim fails for the same reasons identified
11 in the FAC Order and is once again dismissed. Since Plaintiff
12 has failed to allege an underlying constitutional violation
13 against an individual defendant, Defendant Yuba City cannot be
14 held liable for this claim as a matter of law. City of Los
15 Angeles v. Heller, 475 U.S. 796, 799 (1986).

16 5. Plaintiff's Sixth Cause of Action Under the
17 Fourteenth Amendment's Right to Familial Relations
18 is Duplicative

19 Plaintiff's sixth cause of action alleges Defendants
20 unconstitutionally interfered with his Fourteenth Amendment
21 right to familial relations. SAC ¶¶ 83-91. Defendants argue
22 this claim should be dismissed because it is duplicative of
23 Plaintiff's Equal Protection claim. Mot. at 11-12. The Court
24 agrees. Despite the title, this claim is based on the allegedly
25 unequal enforcement of Plaintiff's rights to his children in
26 comparison with Ms. Adam's rights. See SAC ¶¶ 87-89 ("These
27 defendants acted with knowledge that by not enforcing the law
28 equally against Adams"); Opp'n at 18. Because this

1 cause of action is duplicative of Plaintiff's Equal Protection
2 claim, it is dismissed. Accordingly, the Court need not address
3 whether Plaintiff failed to allege conduct that "shocks the
4 conscience." Mot. at 12.

5 6. Plaintiff's Claims are Dismissed With Prejudice
6 Because Leave to Amend Would be Futile

7 Granting or denying leave to amend is within the discretion
8 of District Courts. Foman v. Davis, 371 U.S. 178, 182 (1962).
9 While leave to amend should be freely given, id., "[l]eave need
10 not be granted where the amendment of the complaint . . .
11 constitutes an exercise in futility" Ascon Properties,
12 Inc. v. Mobil Oil Co., 866 F.2d 1149, 1160 (9th Cir. 1989)
13 (citing Foman, 371 U.S. 178). "The district court's discretion
14 to deny leave to amend is particularly broad where plaintiff has
15 previously amended the complaint." Ascon, 866 F.2d at 1160.

16 Despite having the opportunity to correct the defects
17 identified in the FAC, the claims in the SAC fail for
18 substantially similar reasons. Therefore, the Court finds
19 further amendment would be an exercise in futility.

20 IV. ORDER

21 For the reasons set forth above, the Court GRANTS
22 Defendants' motion to dismiss Plaintiff's SAC and DISMISSES each
23 cause of action WITH PREJUDICE.

24 IT IS SO ORDERED.

25 Dated: Dated: June 5, 2024

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27 
28 JOHN A. MENDEZ
SENIOR UNITED STATES DISTRICT JUDGE