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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RYAN ALAN DEARMAN,
Plaintiff,
v.
ELIZABETH UFKES OLIVERA, et al.,
Defendants.

No. 2:22-cv-02158 TLN CKD (PS)

FINDINGS AND RECOMMENDATIONS

Plaintiff is proceeding in this action pro se and in forma pauperis. His first amended complaint (“FAC”) was dismissed with leave to amend. (ECF Nos. 3 & 4.) Before the court for screening is plaintiff’s second amended complaint (“SAC”). (ECF No. 5.) The federal in forma pauperis statute authorizes federal courts to dismiss a case if the action is legally “frivolous or malicious,” fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2).

In the SAC, plaintiff names as defendants the County of Colusa, Superior Court Judge Elizabeth Ufkes Olivera, and prosecutor Bradley Morrow, all of whom were also named defendants in the FAC. In brief and conclusory allegations, plaintiff asserts that “the trial court abused its discretion and violated [his] Due Process rights” in a probation revocation hearing, similar to his allegations in the FAC. See ECF No. 4 at 5 (noting that the FAC “seeks to bring a damages action against the judge, prosecutor, and county sheriff arising from the due process

1 violations that occurred during his October 8, 2020 probation revocation hearing.”).

2 Plaintiff has now filed three complaints in this action. He was previously advised of the
3 standards for pleading a federal claim. The SAC does not cure the pleading deficiencies evident
4 in the FAC. (See ECF No. 4.) Most basically, plaintiff fails to demonstrate how the conduct of
5 each defendant resulted in a deprivation of plaintiff’s federal rights. See Ellis v. Cassidy, 625
6 F.2d 227 (9th Cir. 1980). Moreover, as in the FAC, plaintiff’s claims against the judge and
7 prosecutor at his probation hearing are barred by the doctrines of judicial and prosecutorial
8 immunity. Despite an opportunity to cure the deficiencies in his complaint, plaintiff has failed to
9 do so, and it appears that further amendment would be futile. Thus the undersigned will
10 recommend dismissal of this action.

11 Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed with
12 prejudice for failure to state a claim.

13 These findings and recommendations are submitted to the United States District Judge
14 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
15 after being served with these findings and recommendations, any party may file written
16 objections with the court and serve a copy on all parties. Such a document should be captioned
17 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections
18 within the specified time may waive the right to appeal the District Court’s order. Martinez v.
19 Ylst, 951 F.2d 1153 (9th Cir. 1991).

20 Dated: May 16, 2023

21 
22 CAROLYN K. DELANEY
23 UNITED STATES MAGISTRATE JUDGE

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