

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

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BRANDEN WILLIE ISELI,
Plaintiff,
v.
JEFF LYNCH,
Defendant.

Case No. 2:24-cv-00800-JDP (PC)

ORDER

GRANTING PLAINTIFF’S APPLICATION
TO PROCEED *IN FORMA PAUPERIS* AND
DIRECTING THE CLERK OF COURT TO
ASSIGN A DISTRICT JUDGE

ECF No. 5

FINDINGS AND RECOMMENDATIONS

THAT THE COMPLAINT BE DISMISSED
FOR FAILURE TO STATE A
COGNIZABLE PRISONER CIVIL RIGHTS
CLAIM

ECF No. 1

OBJECTIONS DUE IN FOURTEEN DAYS

Plaintiff, a state prisoner, brings this action under section 1983, alleging that his rights were violated in connection with a previous conviction. ECF No. 1 at 4-5, 12. This action, as explained below, sounds in habeas corpus and cannot proceed as a civil rights action. I find that it would be futile to convert this action into one for habeas corpus, since plaintiff has already filed multiple habeas petitions attacking the relevant conviction. I will recommend this action be

1 dismissed on that basis. Additionally, I will grant plaintiff’s application to proceed *in forma*
2 *pauperis*. ECF No. 5.

3 **Screening Order**

4 **I. Screening and Pleading Requirements**

5 A federal court must screen a prisoner’s complaint that seeks relief against a governmental
6 entity, officer, or employee. *See* 28 U.S.C. § 1915A(a). The court must identify any cognizable
7 claims and dismiss any portion of the complaint that is frivolous or malicious, fails to state a
8 claim upon which relief may be granted, or seeks monetary relief from a defendant who is
9 immune from such relief. *See* 28 U.S.C. §§ 1915A(b)(1), (2).

10 A complaint must contain a short and plain statement that plaintiff is entitled to relief,
11 Fed. R. Civ. P. 8(a)(2), and provide “enough facts to state a claim to relief that is plausible on its
12 face,” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The plausibility standard does not
13 require detailed allegations, but legal conclusions do not suffice. *See Ashcroft v. Iqbal*, 556 U.S.
14 662, 678 (2009). If the allegations “do not permit the court to infer more than the mere
15 possibility of misconduct,” the complaint states no claim. *Id.* at 679. The complaint need not
16 identify “a precise legal theory.” *Kobold v. Good Samaritan Reg’l Med. Ctr.*, 832 F.3d 1024,
17 1038 (9th Cir. 2016). Instead, what plaintiff must state is a “claim”—a set of “allegations that
18 give rise to an enforceable right to relief.” *Nagrampa v. MailCoups, Inc.*, 469 F.3d 1257, 1264
19 n.2 (9th Cir. 2006) (en banc) (citations omitted).

20 The court must construe a pro se litigant’s complaint liberally. *See Haines v. Kerner*, 404
21 U.S. 519, 520 (1972) (per curiam). The court may dismiss a pro se litigant’s complaint “if it
22 appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which
23 would entitle him to relief.” *Hayes v. Idaho Corr. Ctr.*, 849 F.3d 1204, 1208 (9th Cir. 2017).
24 However, “a liberal interpretation of a civil rights complaint may not supply essential elements
25 of the claim that were not initially pled.” *Bruns v. Nat’l Credit Union Admin.*, 122 F.3d 1251,
26 1257 (9th Cir. 1997) (quoting *Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982)).

1 **II. Analysis**

2 Plaintiff’s complaint attacks the validity of a conviction. He argues, among other things,
3 that his counsel was constitutionally ineffective, and that the prosecutor committed misconduct
4 during his trial. ECF No. 1 at 5. Such claims must be brought, if at all, in a petition for habeas
5 corpus. *See Nettles v. Grounds*, 830 F.3d 922, 927 (9th Cir. 2016) (“Challenges to the validity of
6 any confinement or to particulars affecting its duration are the province of habeas corpus . . . [t]he
7 Court has long held that habeas is the exclusive vehicle for claims brought by state prisoners that
8 fall within the core of habeas, and such claims may not be brought in a § 1983 action.”). There is
9 little sense in converting this action into one for habeas corpus, because plaintiff has already filed
10 two habeas petitions attacking what appears to be the same conviction. *See Iseli v. Lynch*, 2:24-
11 cv-00821-JDP; *Iseli v. Lynch*, 2:24-cv-01220-JDP. Thus, I recommend that this action be
12 dismissed. If plaintiff has any rationale or justification as to why this action should proceed, he
13 may state as much in his objections to these recommendations.

14 Accordingly, it is hereby ORDERED that:

- 15 1. Plaintiff’s application to proceed *in forma pauperis*, ECF No. 5, is GRANTED.
16 2. The Clerk of Court is directed to assign a district judge to this action.

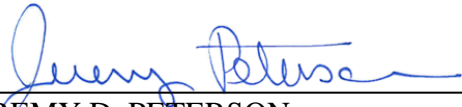
17 Further, it is RECOMMENDED that the complaint, ECF No. 1, be DISMISSED for the
18 reasons stated above.

19 These findings and recommendations are submitted to the United States District Judge
20 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days of
21 service of these findings and recommendations, any party may file written objections with the
22 court and serve a copy on all parties. Any such document should be captioned “Objections to
23 Magistrate Judge’s Findings and Recommendations,” and any response shall be served and filed
24 within fourteen days of service of the objections. The parties are advised that failure to file
25 objections within the specified time may waive the right to appeal the District Court’s order. *See*
26 *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir.
27 1991).

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

IT IS SO ORDERED.

Dated: August 28, 2024



JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE