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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

EDWARD L. TURNER,)	No. C 14-0402 JSW (PR)
Plaintiff,)	ORDER OF DISMISSAL
v.)	
CHERYL A. VAUGHN, et al.,)	
Defendants.)	

INTRODUCTION

Plaintiff, a former parolee of the State of California, filed this pro se civil rights complaint under 42 U.S.C. § 1983 against a judge of the Contra Costa County Superior Court, the Contra Costa County Public Defender, police officers, and other public officials involved in his criminal prosecution. For the reasons discussed below, the complaint is dismissed without prejudice. The application to proceed *in forma pauperis* is granted in a separate order.

STANDARD OF REVIEW

Federal Rule of Civil Procedure 8(a)(2) requires only "a short and plain statement of the claim showing that the pleader is entitled to relief." "Specific facts are not necessary; the statement need only "give the defendant fair notice of what the . . . claim is and the grounds upon which it rests."" *Erickson v. Pardus*, 127 S. Ct. 2197, 2200 (2007) (citations omitted). Although in order to state a claim a complaint "does not need

1 detailed factual allegations, . . . a plaintiff's obligation to provide the 'grounds of his
2 'entitle[ment] to relief' requires more than labels and conclusions, and a formulaic
3 recitation of the elements of a cause of action will not do. . . . Factual allegations must
4 be enough to raise a right to relief above the speculative level." *Bell Atlantic Corp. v.*
5 *Twombly*, 127 S. Ct. 1955, 1964-65 (2007) (citations omitted). A complaint must proffer
6 "enough facts to state a claim for relief that is plausible on its face." *Id.* at 1974. Pro se
7 pleadings must be liberally construed. *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696,
8 699 (9th Cir. 1990).

9 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two elements:
10 (1) that a right secured by the Constitution or laws of the United States was violated, and
11 (2) that the alleged violation was committed by a person acting under the color of state
12 law. *West v. Atkins*, 487 U.S. 42, 48 (1988).

13 **LEGAL CLAIMS**

14 Plaintiff alleges that Defendants conspired together to have him wrongly arrested,
15 prosecuted, and incarcerated on the basis of a criminal conviction. He seeks money
16 damages.

17 The United States Supreme Court has held that to recover damages for an
18 allegedly unconstitutional conviction or imprisonment, a section 1983 plaintiff must
19 prove that the conviction or sentence has been reversed on direct appeal, expunged by
20 executive order, declared invalid by a state tribunal authorized to make such
21 determination, or called into question by a federal court's issuance of a writ of habeas
22 corpus. *Heck v. Humphrey*, 114 S. Ct. 2364, 2372 (1994). A claim for damages arising
23 from a conviction or sentence that has not been so invalidated is not cognizable under
24 section 1983. *Id.* It is clear from the complaint that his conviction and consequent
25 confinement have not been invalidated. It is equally clear that his claims for false arrest
26 and incarceration would, if proven, necessarily imply the invalidity of his confinement.
27 *See id.* Therefore, he fails to state a cognizable claim for damages under Section 1983,
28 and such claims must be dismissed without prejudice. *See Trimble v. City of Santa Rosa,*

1 49 F.3d 583, 585 (9th Cir. 1995) (claims barred by *Heck* may be dismissed sua sponte
2 without prejudice).


3 **CONCLUSION**

4 For the reasons set out above, this action is DISMISSED without prejudice.

5 The Clerk shall close the file and enter judgment.

6 IT IS SO ORDERED.

7 DATED: April 3, 2014

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10 JEFFREY S. WHITE
11 United States District Judge
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2 UNITED STATES DISTRICT COURT
3 FOR THE
4 NORTHERN DISTRICT OF CALIFORNIA
5

6 EDWARD LEE TURNER,

7 Plaintiff,

8 v.

9 CHERYL VAUGHN ET AL et al,

10 Defendant.
11 _____/

Case Number: CV14-00402 JSW


CERTIFICATE OF SERVICE

12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
13 Court, Northern District of California.

14 That on April 3, 2014, I SERVED a true and correct copy(ies) of the attached, by placing said
15 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing
16 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery
17 receptacle located in the Clerk's office.

18 Edward Lee Turner
19 V25872
20 P.O. Box 799002
21 San Diego, CA 92771

22 Dated: April 3, 2014


23 Richard W. Wieking, Clerk
24 By: Jennifer Ottolini, Deputy Clerk
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