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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL H. MIROYAN,  
Plaintiff,  
v.  
STEPHEN V. MANLEY,  
Defendant.

Case No. [16-cv-01084-JCS](#) (PR)

**ORDER OF DISMISSAL**

**INTRODUCTION**

Plaintiff, a California state prisoner proceeding pro se, has filed this federal civil rights action under 42 U.S.C. § 1983 in which he raises claims against a state judge in whose criminal court plaintiff appeared as a defendant, and against the state court’s clerks. After reviewing his allegations pursuant to 28 U.S.C. § 1915(e), the Court DISMISSES the complaint.<sup>1</sup>

**DISCUSSION**

**A. Standard of Review**

In its initial review of this pro se complaint, this Court must dismiss any claim that is frivolous or malicious, or fails to state a claim on which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief. *See* 28 U.S.C. § 1915(e). Pro se pleadings must be liberally construed. *See Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1988).

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<sup>1</sup> Plaintiff consented to magistrate judge jurisdiction. (Docket No. 3.) The magistrate judge, then, has jurisdiction to issue this order, even though defendants have not been served or consented to magistrate judge jurisdiction. *See Neals v. Norwood*, 59 F.3d 530, 532 (5th Cir. 1995).

1 A “complaint must contain sufficient factual matter, accepted as true, to ‘state a  
2 claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)  
3 (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “A claim has facial  
4 plausibility when the plaintiff pleads factual content that allows the court to draw the  
5 reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* (quoting  
6 *Twombly*, 550 U.S. at 556). Furthermore, a court “is not required to accept legal  
7 conclusions cast in the form of factual allegations if those conclusions cannot reasonably  
8 be drawn from the facts alleged.” *Clegg v. Cult Awareness Network*, 18 F.3d 752, 754–55  
9 (9th Cir. 1994).

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

14 **B. Legal Claims**

15 Plaintiff alleges that (1) state court judge Stephen Manley violated his constitutional  
16 rights by (a) appointing a defense attorney who had a conflict of interest; (b) having a  
17 “vindictive disparity of sentencing”; (c) never letting him speak in court, removing him  
18 from the proceedings and then sealing the transcripts; and (d) ordering the court clerks to  
19 not file his pleadings. He also alleges that (2) the state court clerks are violating his rights  
20 by obeying Manley’s instructions. Neither set of allegations states a claim for relief under  
21 § 1983.

22 A state judge is absolutely immune from civil liability for damages for acts  
23 performed in his judicial capacity. *See Pierson v. Ray*, 386 U.S. 547, 553-55 (1967);  
24 *Duvall v. County of Kitsap*, 260 F.3d 1124, 1133 (9th Cir. 2001) (ruling on a motion and  
25 exercising control over a courtroom are normal judicial functions, e.g., judge who denied  
26 disability accommodation to litigant was absolutely immune). “A judge will not be  
27 deprived of immunity because the action he took was in error, was done maliciously, or in  
28 excess of his authority; rather, he will be subject to liability only when he has acted in the

1 ‘clear absence of all jurisdiction.’” *Stump v. Sparkman*, 435 U.S. 349, 356-57 (1978)  
2 (citing *Bradley v. Fisher*, 80 U.S. (13 Wall.) 335, 351 (1872)); *see also Mireles v. Waco*,  
3 502 U.S. 9, 11 (1991) (judicial immunity is not overcome by allegations of bad faith or  
4 malice); *Sadorski v. Mosley*, 435 F.3d 1076, 1079 n.2 (9th Cir. 2006) (mistake alone is not  
5 sufficient to deprive a judge of absolute immunity).

6 The doctrine of judicial immunity does not bar claims for injunctive relief in § 1983  
7 actions. *See Pulliam v. Allen*, 466 U.S. 522, 541-42 (1984); *Ashelman v. Pope*, 793 F.2d  
8 1072, 1075 (9th Cir. 1986) (en banc). However, § 1983 itself provides that “in any action  
9 brought against a judicial officer for an act or omission taken in such officer’s judicial  
10 capacity, injunctive relief shall not be granted unless a declaratory decree was violated or  
11 declaratory relief was unavailable.” 42 U.S.C. § 1983.

12 Claim 1 is DISMISSED. All of the actions described by plaintiff (appointing an  
13 attorney, imposing sentence, controlling his courtroom and the filing process) are acts  
14 performed in Manley’s judicial capacity. He is therefore immune to any claims for money  
15 damages, despite plaintiff’s allegations of malice and bad faith.

16 Any claims for injunctive relief are also DISMISSED. Plaintiff has not alleged, nor  
17 is there anything in the complaint to support an inference, that a declaratory decree was  
18 violated, or that declaratory relief was unavailable. Under these circumstances, Manley is  
19 immune from claims for injunctive relief.

20 Claim 2 is DISMISSED because the court’s clerks are also immune from suit. The  
21 Supreme Court has recognized that some officials perform special functions which,  
22 because of their similarity to functions that would have been immune when Congress  
23 enacted § 1983, deserve absolute protection from damages liability. *Buckley v.*  
24 *Fitzsimmons*, 509 U.S. 259, 268-69 (1993). This immunity extends to individuals  
25 performing functions necessary to the judicial process. *Miller v. Gammie*, 335 F.3d 889,  
26 895-96 (9th Cir. 2003). Under the common law, judges, prosecutors, trial witnesses, and  
27 jurors were absolutely immune for such critical functions. *Id.* at 896. The Court has taken  
28 a “functional approach” to the question of whether absolute immunity applies in a given

1 situation, meaning that it looks to “the nature of the function performed, not the identity of  
2 the actor who performed it.” *Buckley*, 509 U.S. at 269 (1993) (quoting *Forrester v. White*,  
3 484 U.S. 219, 229 (1988)). Accordingly, state actors are granted absolute immunity from  
4 damages liability in suits under § 1983 for actions taken while performing a duty  
5 functionally comparable to one for which officials were immune at common law. *Miller*,  
6 335 F.3d at 897. Here, the clerks’ declination to file is necessarily a part of the judicial  
7 process and therefore they are immune from suit for damages.

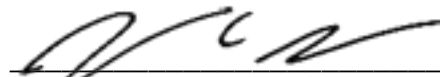
8 Also, if plaintiff seeks relief from Manley’s actions, the proper method is to appeal  
9 the judge’s decisions to the state appellate court, or file a federal habeas action, rather than  
10 file a suit under § 1983.

11 **CONCLUSION**

12 Plaintiff’s claims are DISMISSED. The Clerk shall enter judgment in favor of  
13 defendants, and close the file.

14 **IT IS SO ORDERED.**

15 **Dated:** May 10, 2016

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18 JOSEPH C. SPERO  
19 Chief Magistrate Judge  
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**CERTIFICATE OF SERVICE**

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

That on May 10, 2016, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Michael H. Miroyan ID: ID: ATT211  
Elmwood Correctional Facility  
701 S Abel Street  
Milpitas, CA 95035

Dated: May 10, 2016

Susan Y. Soong  
Clerk, United States District Court

By: Karen L. Hom  
Karen Hom, Deputy Clerk to the  
Honorable JOSEPH C. SPERO