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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

AARON ROBERT ALFORD,

Plaintiff,

v.

PACIFICA POLICE DEPARTMENT,

Defendant.

Case No. [17-cv-00524-JSC](#)

**ORDER DISMISSING IN PART,  
STAYING, AND ADMINISTRATIVELY  
CLOSING CASE**

**INTRODUCTION**

Plaintiff, a pretrial detainee in San Mateo County, filed this pro se civil rights complaint under 42 U.S.C. § 1983 against the Pacifica Police Department.<sup>1</sup> Plaintiff's application to proceed *in forma pauperis* is granted in a separate order. For the reasons explained below, the complaint is dismissed with leave to amend.

**STANDARD OF REVIEW**

Federal courts must engage in a preliminary screening of cases in which prisoners seek redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court must identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint "is frivolous, malicious, or fails to state a claim upon which relief may be granted," or "seeks monetary relief from a defendant who is immune from such relief." *Id.* § 1915A(b). Pro se pleadings must be liberally construed. *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1990).

Federal Rule of Civil Procedure 8(a)(2) requires only "a short and plain statement of the

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<sup>1</sup> Plaintiff consented to the jurisdiction of a United States Magistrate Judge pursuant to 28 U.S.C. § 636(c). (Dkt. 7.)

1 claim showing that the pleader is entitled to relief.” “Specific facts are not necessary; the  
2 statement need only give the defendant fair notice of what the . . . claim is and the grounds upon  
3 which it rests.” *Erickson v. Pardus*, 127 S. Ct. 2197, 2200 (2007) (citations omitted). Although to  
4 state a claim a complaint “does not need detailed factual allegations, . . . a plaintiff’s obligation to  
5 provide the grounds of his entitle[ment] to relief requires more than labels and conclusions, and a  
6 formulaic recitation of the elements of a cause of action will not do. . . . Factual allegations must  
7 be enough to raise a right to relief above the speculative level.” *Bell Atlantic Corp. v. Twombly*,  
8 127 S. Ct. 1955, 1964-65 (2007) (citations omitted). A complaint must proffer “enough facts to  
9 state a claim for relief that is plausible on its face.” *Id.* at 1974.

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

### 14 LEGAL CLAIMS

15 Plaintiff complains that his arrest, current incarceration, and prosecution are unlawful. He  
16 seeks to have all the charges pending against him dismissed, and he claims that he is entitled to  
17 money damages. As to the dismissal of his charges, a writ of habeas corpus is the “exclusive  
18 remedy” for an inmate who seeks “immediate or speedier release” from confinement. *Skinner v.*  
19 *Switzer*, 561 U.S. 521, 525 (2011). A civil rights complaint seeking habeas relief should be  
20 dismissed without prejudice to bringing it as a petition for writ of habeas corpus. *Trimble v. City*  
21 *of Santa Rosa*, 49 F.3d 583, 586 (9th Cir. 1995). Therefore, Plaintiff’s claim seeking to dismiss  
22 his criminal charges must be dismissed without prejudice to refiling in a petition for a writ of  
23 habeas corpus.

24 Because Plaintiff’s claims would --- if proven true --- invalidate his currently pending  
25 charges, his claims for money damages are stayed until his criminal prosecution ends. *See*  
26 *Wallace v. Kato*, 549 U.S. 384, 393-94 (2007). If Plaintiff is convicted, his claims for money  
27 damages will be dismissed; if he is not convicted, his claims for money damages may proceed at  
28 that time. *See id.* at 394.

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**CONCLUSION**

The complaint is **DISMISSED IN PART**. The claims seeking dismissal of the charges against Plaintiff are **DISMISSED** without prejudice to refile in a petition for a writ of habeas corpus filed in a new case. The case is otherwise **STAYED** pending resolution of Plaintiff's criminal proceedings. If Plaintiff wants to proceed with his remaining claims, i.e. his claims for money damages, he must file a motion to lift the stay within 28 days of the date his criminal proceedings are resolved in state court.

The Clerk shall administratively close the file.

**IT IS SO ORDERED.**

Dated: April 27, 2017

  
JACQUELINE SCOTT CORLEY  
United States Magistrate Judge