

United States District Court  
Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

LEONID YAMBURG, EGD735,  
Plaintiff,  
v.  
STATE OF CALIFORNIA, et al.,  
Defendant(s).

Case No. [24-cv-04593-CRB](#) (PR)  
**ORDER OF DISMISSAL**  
(ECF No. 8)

Plaintiff, a pretrial detainee at the Santa Clara County Jail, has filed a pro se complaint for damages under 42 U.S.C. § 1983 alleging various wrongdoing by the presiding judge and court-appointed public defenders in connection with the ongoing state criminal proceedings against him for the murder of his wife and daughter. Among other things, plaintiff alleges that Santa Clara County Superior Court Judge Kelly Paul violated his “constitutional presumption of innocence” in her opening remarks and that assistant public defenders Matthew Wilson and William Weigel violated his constitutional rights “for [effective] assistance of coun[se]l” and “for self[-]representation” on multiple occasions. ECF No. 1 (Compl.) at 10, 11. Plaintiff also alleges that unnamed employees at the Santa Clara County Jail and Napa State Hospital violated his constitutional rights in connection with the conditions of his confinement at those institutions.

Plaintiff seeks compensatory and punitive damages, and “appointment of pro bono counsel.” ECF No. 8 (Mot.) at 1.

**DISCUSSION**

A. 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

1 the complaint, if the complaint “is frivolous, malicious, or fails to state a claim upon which relief  
2 may be granted,” or “seeks monetary relief from a defendant who is immune from such relief.” Id.  
3 § 1915A(b). Pro se pleadings must be liberally construed, however. Balistreri v. Pacifica Police  
4 Dep’t, 901 F.2d 696, 699 (9th Cir. 1990).

5 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two elements: (1) that a  
6 right secured by the Constitution or laws of the United States was violated, and (2) that the alleged  
7 violation was committed by a person acting under the color of state law. West v. Atkins, 487 U.S.  
8 42, 48 (1988).

9 B. Legal Claims

10 It is well established that a state judge generally is “immune from suit for money  
11 damages.” Mireles v. Waco, 502 U.S. 9, 9 (1991). This immunity is overcome in only two sets of  
12 circumstances. Id. at 11. “First, a judge is not immune from liability from nonjudicial actions,  
13 i.e., actions not taken in the judge’s judicial capacity. Second, a judge is not immune for actions,  
14 though judicial in nature, taken in the complete absence of all jurisdiction.” Id. at 11-12 (citations  
15 omitted). “[W]hether an act by a judge is a ‘judicial’ one relate[s] to the nature of the act itself,  
16 i.e., whether it is a function normally performed by a judge, and to the expectations of the parties,  
17 i.e., whether they dealt with the judge in his judicial capacity.” Stump v. Spakman, 435 U.S. 349,  
18 362 (1978). A “complete absence of all jurisdiction” means a clear lack of subject matter  
19 jurisdiction. Miller v. Davis, 521 F.3d 1142, 1147 (9th Cir. 2008).

20 Plaintiff alleges that Santa Clara County Superior Court Judge Kelly Paul violated his  
21 constitutional rights by declaring him a “murderer” in her opening remarks, ECF No. 1 at 8, and in  
22 connection with various court rulings with which he disagrees, see id. at 7-9. None of the alleged  
23 actions by Judge Paul in connection with plaintiff’s ongoing state criminal proceedings involve  
24 nonjudicial actions or judicial actions taken in the complete absence of all jurisdiction. See  
25 Mireles, 502 U.S. at 11-12. Judge Paul consequently is “immune from suit for money damages.”  
26 Id. at 9. See also Munoz v. Superior Court of Los Angeles County, 91 F.4th 977, 981 (9th Cir.  
27 2024) (“state court judges cannot be sued in federal court in their judicial capacity under the  
28 Eleventh Amendment”) (footnote omitted).

1 Plaintiff's allegations that assistant public defenders Matthew Wilson and William Weigel  
2 violated his constitutional rights to effective assistance of counsel and to self-representation in  
3 connection with their handling of his defense in the ongoing state criminal proceedings against  
4 him fail to state a claim upon which relief may be granted. It is well established that a public  
5 defender does not act under color of state law, an essential element of an action under § 1983,  
6 when performing a lawyer's traditional functions, such as entering pleas, making motions,  
7 objecting at trial, cross-examining witnesses, and making closing arguments. See Polk County v.  
8 Dodson, 454 U.S. 312, 318-19 (1981). It matters not that the public defender failed to exercise  
9 independent judgment or that he was employed by a public agency; it is the nature and context of  
10 the function performed by the public defender that is determinative under Polk County. Miranda  
11 v. Clark County, Nevada, 319 F.3d 465, 468 (9th Cir. 2003) (en banc).<sup>1</sup>

12 Plaintiff's allegations that unnamed employees at the Santa Clara County Jail and Napa  
13 State Hospital violated his constitutional rights in connection with the conditions of his  
14 confinement at those institutions will be dismissed without prejudice to bringing in a separate suit  
15 because it is well established that "[u]nrelated claims against different defendants belong in  
16 different suits." George v. Smith, 507 F.3d 605, 607 (7th Cir. 2007).

17 B. Motion for Appointment of Counsel

18 Plaintiff's motion for appointment of counsel (ECF No. 8) is DENIED for lack of  
19 exceptional circumstances. See Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wilborn  
20 v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986).

21 **CONCLUSION**

22 For the foregoing reasons, the complaint is DISMISSED without leave to amend under the  
23 authority of 28 U.S.C. § 1915A(b). Plaintiff's allegations against the named defendants – Judge  
24 Paul, assistant public defenders Wilson and Weigel, the State of California and the County of  
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26 <sup>1</sup> Plaintiff also names as defendants the State of California and the County of Santa Clara  
27 on the apparent theory that the state is responsible for the actions/omissions of state judges and  
28 that the county is responsible for the actions/omissions of public defenders. But it is well  
established that the state is immune from damages under the Eleventh Amendment and that the  
county cannot be held vicariously liable for the unconstitutional acts of its employees. See Board  
of Cty. Comm'rs. of Bryan Cty. v. Brown, 520 U.S. 397, 403 (1997).


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Santa Clara – are dismissed for failure to state a claim upon which relief may be granted and/or for seeking monetary relief from a defendant who is immune from such relief, and plaintiff’s allegations against the unnamed employees at the Santa Clara County Jail and Napa State Hospital are dismissed without prejudice to bringing in a separate suit.

The clerk is instructed to terminate the motion appearing on ECF as item number 8.

**IT IS SO ORDERED.**

Dated: November 25, 2024

  
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CHARLES R. BREYER  
United States District Judge