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United States District Court
For the Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

ROYALTON McCAMEY,

Plaintiff,

No. C 12-1412 PJH (PR)

vs.

**ORDER DISMISSING
COMPLAINT WITH LEAVE
TO AMEND**

SAN FRANCISCO COUNTY JAIL, DR.
VIVAS, NURSE LIEGH and CAPTAIN
PICOT,

Defendants.

BACKGROUND

Plaintiff, a prisoner at California State Prison-Solano, has filed a pro se civil rights complaint under 42 U.S.C. § 1983, regarding events at San Francisco County Jail. He has been granted leave to proceed in forma pauperis.

SCREENING

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). In its review the court must identify any cognizable claims, and dismiss any claims which are frivolous, malicious, fail to state a claim upon which relief may be granted, or seek monetary relief from a defendant who is immune from such relief. *Id.* at 1915A(b)(1),(2). 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 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

1 grounds upon which it rests." *Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (citations
2 omitted). Although in order to state a claim a complaint "does not need detailed factual
3 allegations, . . . a plaintiff's obligation to provide the 'grounds' of his 'entitle[ment] to relief'
4 requires more than labels and conclusions, and a formulaic recitation of the elements of a
5 cause of action will not do. . . . Factual allegations must be enough to raise a right to relief
6 above the speculative level." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)
7 (citations omitted). A complaint must proffer "enough facts to state a claim to relief that is
8 plausible on its face." *Id.* at 570. The United States Supreme Court has explained the
9 "plausible on its face" standard of *Twombly*: "While legal conclusions can provide the
10 framework of a complaint, they must be supported by factual allegations. When there are
11 well-pleaded factual allegations, a court should assume their veracity and then determine
12 whether they plausibly give rise to an entitlement to relief." *Ashcroft v. Iqbal*, 556 U.S. 662,
13 679 (2009). Complaints in pro se prisoner cases such as this one must be liberally
14 construed in favor of the plaintiff when applying the *Twombly/Iqbal* pleading standard.
15 *Hebbe v. Pliker*, 627 F.3d 338, 341-42 (9th Cir. 2010).

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

20 **B. Legal Claims**

21 Plaintiff asserts that he suffered a tear to his rotator cuff and knee and a broken
22 finger but he was denied access to see a doctor. He states he submitted requests but
23 defendant nurse Liegh said that multiple requests would not provide faster treatment. It is
24 alleged that defendant Dr. Vivas ordered X-Rays, which showed no broken bones, but
25 plaintiff was still supposed to be taken to San Francisco General Hospital, but he was never
26 sent. Plaintiff states that as a result he suffered serious pain and later obtained surgery on
27 his rotator cuff and knee. Plaintiff provides no more information.

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