

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
NEWNAN DIVISION**

KENNETH JEROME BELLAMY,	::	PRISONER CIVIL RIGHTS
Plaintiff,	::	42 U.S.C. § 1983
	::	
v.	::	
	::	
BARRY H. BABB; et al.,	::	CIVIL ACTION NO.
Defendants.	::	3:25-CV-0241-LMM-RGV

ORDER AND FINAL REPORT AND RECOMMENDATION

Plaintiff Kenneth Jerome Belamy, presently confined in the Fayette County Jail in Fayetteville, Georgia, has filed this pro se civil rights action. The matter is now before the undersigned Magistrate Judge for consideration of plaintiff's request to proceed in forma pauperis, [Doc. 3 at 10-12], and for a 28 U.S.C. § 1915A frivolity screening of the amended complaint, [Doc. 3 at 1-8], as supplemented, [Doc. 5].¹ For the reasons that follow, plaintiff's request to proceed in forma pauperis, [Doc. 3 at 10-12], is **GRANTED**, but it is **RECOMMENDED** that this action be **DISMISSED** for failure to state a claim.

¹ “[A]n amended pleading supersedes the former pleading; the original pleading is abandoned by the amendment, and is no longer a part of the pleader’s averments against his adversary.” Devengoechea v. Bolivarian Republic of Venezuela, 889 F.3d 1213, 1229 (11th Cir. 2018) (citation omitted).

I. REQUEST TO PROCEED IN FORMA PAUPERIS

A review of plaintiff's financial affidavit reveals that he has filed an authorization allowing his custodian to withdraw funds from his inmate account and that he has insufficient funds in that account to pay the filing fee. [Doc. 3 at 11-12]. Accordingly, plaintiff's request to proceed in forma pauperis, [id. at 10-12], is **GRANTED**, and plaintiff need not pay an initial partial filing fee. Plaintiff shall, however, be obligated to pay the full statutory filing fee of \$350.00 as funds are deposited in his inmate account pursuant to the provisions of 28 U.S.C. § 1915(b)(2). Specifically, the balance of said filing fee shall be paid by, or on behalf of the plaintiff, in monthly or other incremental payments in the amount of 20% of the preceding month's income credited to plaintiff's inmate account in each month in which plaintiff's account balance exceeds \$10.00. Pursuant to 28 U.S.C. § 1915(b)(2), the institution administering plaintiff's inmate account shall withdraw such amounts from the account and remit the same to the Clerk, U.S. District Court, until the filing fee is paid in full, as verified by separate notice from the Clerk to the warden of the institution.

II. FRIVOLITY SCREENING

A. Legal Standards

Plaintiff brings this civil rights action against the defendants under 42 U.S.C. § 1983 (“§ 1983”). Federal courts are required to screen “as soon as practicable” a prisoner complaint “which seeks redress from a governmental entity or officer or employee of a governmental entity.” 28 U.S.C. § 1915A(a). Section 1915A(b) requires a federal court to dismiss a prisoner complaint that either: (1) is “frivolous, malicious, or fails to state a claim upon which relief may be granted”; or (2) “seeks monetary relief from a defendant who is immune from such relief.”

To state a claim for relief under § 1983, a plaintiff must allege that an act or omission committed by a person acting under color of state law deprived him of a right, privilege, or immunity secured by the Constitution or laws of the United States. Hale v. Tallapoosa Cty., 50 F.3d 1579, 1582 (11th Cir. 1995). If a litigant cannot satisfy those requirements, or fails to provide supporting factual allegations, then the complaint is subject to dismissal for failure to state a claim. See Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007) (noting that “[f]actual allegations must be enough to raise a right to relief above the speculative level,” and that a complaint “must contain something more . . . than . . . a statement of facts that merely creates a suspicion [of] a legally cognizable right of action” (citations

omitted)); see also Ashcroft v. Iqbal, 556 U.S. 662, 681-84 (2009) (holding that Twombly “expounded the pleading standard for ‘all civil actions,’” to wit, conclusory allegations that “amount to nothing more than a ‘formulaic recitation of the elements’ of a constitutional . . . claim” are “not entitled to be assumed true,” and, to escape dismissal, complaint must allege facts sufficient to move claims “across the line from conceivable to plausible” (citations omitted)); Papasan v. Allain, 478 U.S. 265, 286 (1986) (accepting as true only plaintiff’s factual contentions, but not his or her legal conclusions couched as factual allegations); Beck v. Interstate Brands Corp., 953 F.2d 1275, 1276 (11th Cir. 1992) (per curiam) (court is “not permitted to read into the complaint facts that are not there”).

B. Discussion

Plaintiff brings this action against the Fayette County Sheriff’s Department, the jail/detention center, Sheriff Barry H. Babb, Chief Anthony Rodes, and jail administrator Cody Benslay. [Doc. 3 at 1, 3]. Plaintiff alleges, in pertinent part, that, on July 25, 2025, the light fixture in room 505 fell from the ceiling, the inmates were taken out of the room, and a maintenance worker removed the light fixture from the room. [Id. at 4]. Plaintiff states that, on July 29, 2025, he asked a floor officer about repairing the light and reported it to a supervisor via the kiosk, and, on July 31, 2025, the same light fixture was reinstalled in room 505 using masonry

pins. [Id. at 7]. Plaintiff asserts that he was moved to room 505 on September 22, 2025, and the light fixture fell from the ceiling when “the concrete gave out,” smacking plaintiff in the face and causing him to sustain a concussion and a knot with a gash that left a scar. [Id. at 5, 7]. According to plaintiff, on November 24, 2025, the same light fixture was reinstalled in room 505, which is currently unoccupied, and maintenance reinstalled screws in that light fixture on December 2, 2025. [Id. at 6]. Plaintiff contends that Sheriff Babb “was subjectively aware of the fallen light” fixture and that defendants are responsible for failing to inspect or properly repair it. [Id.]. Plaintiff seeks monetary relief. [Id. at 7]. In his supplement, plaintiff adds claims against the Fayette County Sheriff’s Office and detention center under Georgia law.² [Doc. 5].

Pursuant to § 1983, a plaintiff may pursue relief for possible violations of her constitutional rights only against the specific individuals who committed acts that allegedly violated those rights. See Hafer v. Melo, 502 U.S. 21, 27 (1991); Will v. Michigan Dep’t of State Police, 491 U.S. 58, 71 n.10 (1989). The Fayette County Sheriff’s Department and jail/detention center are not legal entities subject

² The Court notes that the Georgia Tort Claims Act specifically excludes tort suits against counties. See O.C.G.A. § 50-21-22(5).

to suit under § 1983. Dean v. Barber, 951 F.2d 1210, 1214 (11th Cir. 1992); Brannon v. Thomas Cty. Jail, 280 F. App'x 930, 934 n.1 (11th Cir. 2008) (per curiam). Plaintiff has not alleged any facts to show that Sheriff Babb, Chief Rhodes, or administrator Benslay are directly responsible for the alleged negligent reinstallation of the light fixture that fell on plaintiff. See Douglas v. Yates, 535 F.3d 1316, 1322 (11th Cir. 2008) (“[A] complaint will be held defective . . . if [it] fails to connect the defendant with the alleged wrong.”). Plaintiff also has not alleged sufficient facts to show that these defendants could be held vicariously liable for the maintenance workers’ alleged negligence. See Cottone v. Jenne, 326 F.3d 1352, 1360 (11th Cir. 2003) (Supervisory liability attaches only when “a history of widespread abuse puts the responsible supervisor on notice of the need to correct the alleged [constitutional] deprivation, and he fails to do so,” the supervisor implemented a policy or custom that resulted in plaintiff’s injury, or “facts support an inference that the supervisor directed the subordinates to act unlawfully or knew that the subordinates would act unlawfully and failed to stop them from doing so.”). To the extent that plaintiff contends that defendants failed to properly respond or act upon his complaints or grievances, such conduct or inaction is not actionable under § 1983. See Lee v. Michigan Parole Bd., 104 F. App'x 490, 493 (6th Cir. 2004) (“Section 1983 liability may not be imposed simply

because a defendant denied an administrative grievance or failed to act based upon information contained in a grievance.”); Magwood v. Tucker, No. 3:12cv140/RV/CJK, 2012 WL 5944686, at *3 (N.D. Fla. Nov. 14, 2012) (“Filing a grievance with a supervisory person does not alone make the supervisor liable for the allegedly violative conduct brought to light by the grievance, even if the grievance is denied.”) (citations omitted), report and recommendation adopted, 2012 WL 5944657, at *1 (N.D. Fla. Nov. 28, 2012); Clark v. Bandy, No. 2:10-CV-00169-RWS, 2011 WL 1346975, at *4 (N.D. Ga. Apr. 8, 2011) (“A prison official’s mere participation in a grievance procedure—for example, by denying a prisoner’s grievance—is not actionable under § 1983.”) (citations omitted).

To state a constitutional jail-conditions claim, “plaintiff must show that the defendant official was subjectively aware that his own conduct—again, his own actions or inactions—put the plaintiff at substantial risk of serious harm.” Wade v. McDade, 106 F.4th 1251, 1258 (11th Cir. 2024). Plaintiff fails to state a deliberate-indifference claim against the named defendants because he has not alleged facts to show that they were “actually aware that [their] own conduct caused a substantial risk of serious harm to the plaintiff.” Id. at 1261. Thus, this action is due to be dismissed because plaintiff has failed to state federal claims against the named defendants.

Because plaintiff has failed to state a federal claim for relief, the Court should decline to exercise supplemental jurisdiction over his state law claims. See 28 U.S.C. § 1367(c)(3) (providing that district court may decline to exercise supplemental jurisdiction if it “has dismissed all claims over which it has original jurisdiction”); Kinsey v. King, 257 F. App’x 136, 138 (11th Cir. 2007) (per curiam) (“[S]upplemental jurisdiction alone does not permit a federal court to exercise jurisdiction.” (citation omitted)); Brown v. JP Morgan Chase Bank, N.A., No. 3:14-cv-00044-TCB-RGV, 2014 WL 12480500, at *2 (N.D. Ga. Sept. 25, 2014) (“Courts have long recognized the general rule that when all federal claims are dismissed before trial, courts should relinquish jurisdiction over supplemental state-law claims.”).

III. CONCLUSION

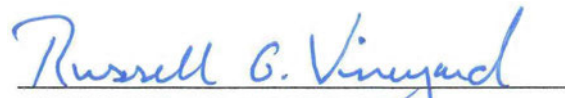
For the foregoing reasons, plaintiff’s request to proceed in forma pauperis, [Doc. 3 at 10-12], is **GRANTED**, but **IT IS RECOMMENDED** that this pro se civil rights action be **DISMISSED** for failure to state a claim.

The Clerk **SHALL** transmit a copy of this Order to the Fayette County Sheriff. The Sheriff, or his designee, shall collect the aforesaid monthly payments from plaintiff’s inmate account and remit such payments to the Clerk of the United

States District Court for the Northern District of Georgia until the \$350.00 filing fee is paid in full.

The Clerk is **DIRECTED** to terminate the referral to the Magistrate Judge.

SO ORDERED AND RECOMMENDED, this 9th day of January, 2026.



RUSSELL G. VINEYARD
UNITED STATES MAGISTRATE JUDGE