

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Marian Anthony v. Terrie E. Roberts & Laura Miller

Anthony · No. 3:25-cv-2486-CAB-AHG · Decided December 1, 2025

OPINION

Anthony

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 MARIAN ANTHONY, Case No.: 3:25-cv-2486-CAB-AHG 12 Plaintiff, ORDER: 13 v.

(1) GRANTING MOTIONS TO

14 TERRIE E. ROBERTS & LAURA

DISMISS & STRIKE;

MILLER,

15 Defendants. (2) DENYING MOTIONS FOR 16

LEAVE & FOR EXTENSION

17 [Doc. Nos. 5, 7, 8, 11] 18 19 On September 22, 2025, Plaintiff Marian Anthony filed a
complaint against 20 Defendants Terrie Roberts and Laura Miller, alleging Section 1983 claims.

[Doc. No. 1.] 21 Defendants filed a motion to dismiss and a motion to strike portions of the
complaint. [Doc. 22 Nos. 7, 8.] Plaintiff filed a motion for leave to file a supplemental complaint
and a motion 23 for an extension of time to respond to an order to show cause. [Doc. Nos. 5, 11.]
For the 24 reasons below, the Court GRANTS the motions to dismiss and strike, and DENIES 25
Plaintiff's motions for leave and for an extension. 26 /// 27 /// 28

1 I. BACKGROUND

2 The Court recently dismissed a similar action Plaintiff filed, which stemmed from a 3 child
custody proceeding in state court. Anthony v. Sanchez, No. 3:25-cv-1548-CAB- 4 AHG, 2025 WL
3208846 (S.D. Cal. Nov. 17, 2025). Plaintiff is the petitioner in a family 5 dissolution matter
pending in Superior Court, entitled Marian Anthony v. Corina Galvez, 6 Case No. 19FL005322N.
[Doc. No. 7-1 at 8.] Defendants Roberts and Miller are Judges 7 of the Superior Court of
California. [Id. at 7.] Plaintiff alleges various issues regarding 8 how the Judges have conducted
hearings, including overruling Plaintiff's objections, 9 refusing to consider certain arguments, and
requiring Plaintiff take an oath before 10 testifying/presenting arguments. [Doc. No. 1 at 4–6.]
Plaintiff seeks damages, an 11 injunction requiring Defendants to recuse, and a declaration that
Defendants violated his 12 First, Fifth, and Fourteenth Amendment rights and the Contract Clause.

[Id. at 9.]

13 II. LEGAL STANDARD

14 Fed. R. Civ. P. 12(b)(1) permits a party to move to dismiss based on the court's lack 15 of subject-matter jurisdiction. The federal court is one of limited jurisdiction. See Gould 16 v. Mut. Life Ins. Co. of N.Y., 790 F.2d 769, 774 (9th Cir. 1986). The party asserting 17 jurisdiction, here Plaintiff, has the burden of establishing that the court has subject-matter 18 jurisdiction. Ass'n. of Am. Med. Colls. v. United States, 217 F.3d 770, 778–79 (9th Cir. 19 2000). As such, the Court cannot reach the merits of any dispute until it confirms its own 20 subject matter jurisdiction. See Steel Co. v. Citizens for a Better Env't., 523 U.S. 83, 95 21 (1998). A defense of lack of “subject-matter jurisdiction, because it involves a court’s 22 power to hear a case, can never be forfeited or waived.” United States v. Cotton, 535 U.S. 23 625, 630 (2002). 24 Fed. R. Civ. P. 12(b)(6) permits a party to move to dismiss based on a “failure to 25 state a claim upon which relief can be granted.” The Court evaluates whether a complaint 26 states a recognizable legal theory and sufficient facts in light of Fed. R. Civ. P. 8(a)(2), 27 which requires a “short and plain statement of the claim showing that the pleader is entitled 28 to relief.” Although Rule 8 “does not require ‘detailed factual allegations,’ . . . it [does] 1 demand[] . . . more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” 2 Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting Bell Atl. Corp. v. Twombly, 550 U.S. 3 544, 555 (2007)). 4 “To survive a motion to dismiss, a complaint must contain sufficient factual matter, 5 accepted as true, to ‘state a claim to relief that is plausible on its face.’” Id. (quoting 6 Twombly, 550 U.S. at 570); see also Fed. R. Civ. P. 12(b) (6). A claim is facially plausible 7 when the collective facts pleaded “allow[] the court to draw the reasonable inference that 8 the defendant is liable for the misconduct alleged.” Id. at 678 (quoting Twombly, 550 U.S. 9 at 556). There must be “more than a sheer possibility that a defendant has acted 10 unlawfully.” Id. (quoting Twombly, 550 U.S. at 557). Facts “merely consistent with a 11 defendant’s liability” fall short of a plausible entitlement to relief. Id. (internal quotation 12 marks omitted). The Court need not accept as true “legal conclusions” contained in the 13 complaint, id., or other “allegations that are merely conclusory, unwarranted deductions of 14 fact, or unreasonable inferences.” Daniels-Hall v. Nat’l Educ. Ass’n, 629 F.3d 992, 998 15 (9th Cir. 2010). The Court accepts as true all allegations in the complaint and construes 16 the allegations in the light most favorable to the nonmoving party, here Plaintiff. See 17 Knievel v. ESPN, 393 F.3d 1068, 1072 (9th Cir. 2005). Moreover, as Plaintiff proceeds 18 pro se, the Court construes his complaint liberally. See Hebbe v. Pliler, 627 F.3d 338, 342 19 (9th Cir. 2010).

20 III. DISCUSSION

21 A. Motion to Dismiss; Motion for an Extension of Time 22 Defendants argue that they are immune from liability, and that Plaintiff’s claims are 23 conclusory and barred, inter alia, by Rooker-Feldman. The Court agrees. 24 “Judges . . . are absolutely immune from damage liability for acts performed in their 25 official capacities.” Ashelman v. Pope, 793 F.2d 1072, 1075 (9th Cir. 1986). “This 26 absolute immunity insulates judges from charges of erroneous acts or irregular

action, even 27 when it is alleged that such action was driven by malicious or corrupt motives, or when the 28 exercise of judicial authority is flawed by the commission of grave procedural errors.” In *re* Castillo, 297 F.3d 940, 947 (9th Cir. 2022) (internal citation and quotation marks 2 omitted). Despite suing Defendants in their individual capacity, Plaintiff seeks damages 3 for actions Defendants took in their official capacities as judges. [Doc. No. 1 at 4–6.] 4 Accordingly, the Court finds Defendants are immune to any damages liability. 5 Plaintiff also seeks an injunction requiring Defendants to recuse themselves from his 6 case. [Doc. No. 1 at 9.] “[T]he Rooker-Feldman doctrine bars direct federal district court 7 appellate review of state court judicial proceedings.” *S. California Edison Co. v. Lynch*, 8 307 F.3d 794, 804 (9th Cir. 2002). “If claims raised in the federal court action are 9 inextricably intertwined with the state court’s decision such that the adjudication of the 10 federal claims would undercut the state ruling . . . then the federal complaint must be 11 dismissed for lack of subject matter jurisdiction.” *Bianchi v. Rylaarsdam*, 334 F.3d 895, 12 898 (9th Cir. 2003). Additionally, “the Court does not have the authority to order the 13 disqualification of a judge in a state court proceeding.” *Alexander v. Bonta*, No. ED CV 14 25-447-DMG-DTB, 2025 WL 1717657, at *1 n.1 (C.D. Cal. Apr. 15, 2025). Finally, 15 regarding Plaintiff’s sought declaratory relief, the Ninth Circuit has instructed “federal 16 courts [to] refrain from exercising jurisdiction in actions for declaratory relief because 17 declaratory relief has the same practical impact as injunctive relief on a pending state 18 proceeding[.]” *Gilbertson v. Albright*, 381 F.3d 965, 975 (9th Cir. 2004) (en banc). 19 Accordingly, the Court GRANTS with prejudice the motion to dismiss. It is clear 20 to the Court that Plaintiff seeks to have a federal district court improperly interfere with an 21 ongoing state proceeding. Accordingly, leave to amend is unwarranted. See *Karim-Panahi 22 v. Los Angeles Police Dep’t*, 839 F.2d 621, 623 (9th Cir. 1988) (“A pro se litigant must be 23 given leave to amend his or her complaint unless it is absolutely clear that the deficiencies 24 of the complaint could not be cured by amendment.”). As the complaint is dismissed with 25 26 27 28 1 prejudice, the Court DENIES as moot the motion for an extension to respond to the order 2 to show cause.1 3 B. Motion to Strike 4 Defendants seek to strike Exhibits 1, 3, and 4, from Plaintiff’s complaint. Plaintiff 5 states that the exhibits are transcripts from the hearings he takes issue with. [Doc. No. 1-2 6 at 2.] Defendants argue that Plaintiff’s exhibits are not certified copies of the official 7 transcripts nor created by an official court reporter or reporter pro tempore. [See Doc. No. 8 8-1 at 2–6.] Indeed, it appears Plaintiff created these transcripts himself and there is no 9 certification that these are the official transcripts from the Superior Court of California. As 10 these exhibits are not subject to judicial notice pursuant to Federal Rule of Evidence 201, 11 the Court does not consider them. See *Tellabs, Inc. v. Makor Issues & Rts., Ltd.*, 551 U.S. 12 308, 322 (2007) (“[C]ourts must consider the complaint in its entirety, as well as . . . 13 documents incorporated into the complaint by reference, and matters of which a court may 14 take judicial notice.”). The motion to strike is GRANTED. 15 C. Motion to File Supplemental Complaint 16 Plaintiff seeks to file, pursuant to Fed. R. Civ. P. 15(d), a supplemental complaint 17 which makes the same challenges as his initial complaint albeit to a

different judicial 18 hearing. [Doc. No. 5 at 8–10 (“This conduct mirrors prior violations[.]”).] Courts have 19 broad discretion under Rule 15(d) to allow supplemental pleadings. *Keith v. Volpe*, 858 20 F.2d 467, 473 (9th Cir. 1988). Given that the supplemental complaint makes the same 21 futile challenges as the initial complaint, the Court DENIES the motion. See *LaSalvia v. 22 United Dairymen of Ariz.*, 804 F.2d 1113, 1119 (9th Cir. 1986) (“The purpose of Rule 15(d) 23 is to promote as complete an adjudication of the dispute between the parties as is 24 possible.”). 25 ///

26 27 1 After seeking this extension, Plaintiff filed eight additional responses, nonetheless. [Doc. Nos. 13, 16, 28

I IV. CONCLUSION

2 The Court GRANTS with prejudice Defendants’ motion to dismiss and GRANTS 3 motion to strike. The Court DENIES Plaintiff’s motion for leave to file a supplemental 4 ||complaint and for an extension to respond to the order to show cause. The Clerk of Court 5 || shall close this case and reject any additional filings by Plaintiff. 6 It is SO ORDERED. 7 Dated: December 1, 2025 □

Z 8 Hon. Cathy Ann Bencivengo ? United States District Judge 10 11 12 13 14 15 16 17 18 19 20

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