

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Stephen Favis v. Daryl Mallori, et al.

Favis · No. 2:25-cv-1030-DAD-JDP (PS) · Decided April 29, 2025

OPINION

(PS) Favis v. Mallori

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 STEPHEN FAVIS, Case No. 2:25-cv-1030-DAD-JDP (PS) 12 Plaintiff, 13 v. ORDER 14
DARYL MALLORI, et al., 15 Defendants. 16 17 18 Plaintiff brings this action against two of his
neighbors, Daryl Mallori and Isabella Shin, 19 and their landlord, Myeong Bae Kim. The
complaint alleges that Mallori and Shin obtained a 20 restraining order against plaintiff by false
pretenses. Despite plaintiff’s protestation that the 21 Rooker-Feldman doctrine does not apply, and
that he seeks to bring this action based on the 22 doctrine of extrinsic evidence, this case runs
square into the Rooker-Feldman wall. I will 23 therefore dismiss the complaint with leave to
amend. I will also grant plaintiff’s application to 24 proceed in forma pauperis, ECF No. 2, which
makes the showing required by 28 U.S.C. 25 §§ 1915(a)(1) and (2). 26 Screening and Pleading
Requirements 27 A complaint must contain a short and plain statement that plaintiff is entitled to
relief, 28 Fed. R. Civ. P. 8(a)(2), and provide “enough facts to state a claim to relief that is
plausible on its 1 face,” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The plausibility
standard does not 2 require detailed allegations, but legal conclusions do not suffice. See *Ashcroft*
v. Iqbal, 556 U.S. 3 662, 678 (2009). If the allegations “do not permit the court to infer more than
the mere 4 possibility of misconduct,” the complaint states no claim. *Id.* at 679. The complaint
need not 5 identify “a precise legal theory.” *Kobold v. Good Samaritan Reg’l Med. Ctr.*, 832 F.3d
1024, 6 1038 (9th Cir. 2016). Instead, what plaintiff must state is a “claim”—a set of “allegations
that 7 give rise to an enforceable right to relief.” *Nagrampa v. MailCoups, Inc.*, 469 F.3d 1257,
1264 8 n.2 (9th Cir. 2006) (en banc) (citations omitted). 9 The court must construe a pro se
litigant’s complaint liberally. See *Haines v. Kerner*, 404 10 U.S. 519, 520 (1972) (per curiam). The
court may dismiss a pro se litigant’s complaint “if it 11 appears beyond doubt that the plaintiff can
prove no set of facts in support of his claim which 12 would entitle him to relief.” *Hayes v. Idaho*
Corr. Ctr., 849 F.3d 1204, 1208 (9th Cir. 2017). 13 However, “‘a liberal interpretation of a civil
rights complaint may not supply essential elements 14 of the claim that were not initially pled.’”
Bruns v. Nat’l Credit Union Admin., 122 F.3d 1251, 15 1257 (9th Cir. 1997) (quoting *Ivey v. Bd.*

of Regents, 673 F.2d 266, 268 (9th Cir. 1982)). 16 Analysis 17 Plaintiff alleges that in March 2025, he submitted a noise complaint regarding his 18 neighbors, defendants Mallori and Shin. ECF No. 1 at 3. A few days later, plaintiff and his wife 19 met up with Mallori and Shin, at which time Mallori and Shin “responded to [plaintiff’s] 20 complaint with hostile, retaliatory, and threatening behavior.” Id. Plaintiff alleges that the 21 incident turned physical, and he sustained a herniated T9-T10 thoracic spinal disc injury. Id. 22 A week following the altercation, Mallori and Shin filed for a restraining order against 23 plaintiff, and, according to plaintiff, in doing so relied on false statements and omissions. Id. In 24 response, he filed for a cross-protective order and moved to compel production of video evidence 25 of the altercation. Id. Plaintiff was not provided with the video evidence, and Judge Acero of the 26 Sacramento County Superior Court granted Mallori and Shin’s restraining order after viewing the 27 video. Id. at 3-4. 28 1 Plaintiff asserts several causes of action: violation of due process and retaliation (42 U.S.C. § 1983); conspiracy to interfere with civil rights (42 U.S.C. § 1985(2)); abuse of process 3 (California Civil Code § 47); fraud on the court (California Penal Code §§ 118, 132, 134); and 4 suppression of evidence and obstruction (California Civil Procedure Code § 2025.450 & 5 California Evidence Code § 210). Id. at 4-5. As relief, plaintiff asks that this court declare the 6 restraining order “void and unenforceable.” Id. at 5. 7 The complaint is defective for several reasons: (1) plaintiff alleges no claims against 8 defendant Kim; (2) the complaint alleges no cognizable federal claims; and (3) the claims are 9 barred by legal doctrines that prevents federal courts from interfering with state court judgments. 10 In light of the foregoing, the court should also decline to exercise supplemental jurisdiction over 11 plaintiff’s state law claims. 12 As an initial matter, plaintiff asserts no claims against his landlord, defendant Kim. 13 Plaintiff must allege with at least some degree of particularity overt acts of defendant Kim that 14 support his claims. See *Jones v. Cmty. Redev. Agency*, 733 F.2d 646, 649 (9th Cir. 1984) (“The 15 plaintiff must allege with at least some degree of particularity overt acts which defendants 16 engaged in that support the plaintiff’s claim.”). 17 Second, plaintiff’s federal claims—violation of due process and retaliation under 42 18 U.S.C. § 1983 and conspiracy to interfere with civil rights under 42 U.S.C. § 1985(2)—are 19 inadequately alleged. To state a § 1983 claim, plaintiff must allege facts showing that he was 20 deprived of a federal or constitutional right and that “the alleged deprivation was committed by a 21 person acting under color of state law.” *West v. Atkins*, 487 U.S. 42, 48 (1988). “[T]he under- 22 color-of-state-law element of § 1983 excludes from its reach ‘merely private conduct, no matter 23 how discriminatory or wrongful.’” *American Mfrs. Mut. Ins. Co. v. Sullivan*, 526 U.S. 40, 50 24 (1999) (quoting *Blum v. Yaretsky*, 457 U.S. 991, 1002 (1982)). The complaint includes no 25 allegations that plaintiff’s neighbors and landlord were acting under the color of state law. 26 Liability exists for conspiracy under 42 U.S.C. § 1985(2) if 27 [T]wo or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course 28 of justice in any State or Territory, with intent to deny to any citizen 1 the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right

of any 2 person, or class of persons, to the equal protection of the laws. 3 42 U.S.C. § 1985(2). A conspiracy claim under § 1985(2) requires a direct or indirect purpose of 4 depriving a person of the equal protection of the laws, or the equal privileges or immunities under 5 the laws, and a class race-based animus. See *Bretz v. Kelman*, 773 F.2d 1026, 1028 (9th Cir. 6 1985) (en banc). Here, plaintiff has not alleged any facts demonstrating that there was a 7 conspiracy or that any actions taken by defendants were racially motivated. Therefore, plaintiff 8 has failed to state a claim. 9 Finally, and most fundamentally, this court lacks jurisdiction because of the Rooker- 10 Feldman doctrine. “The Rooker-Feldman doctrine is a well-established jurisdictional rule 11 prohibiting federal courts from exercising appellate review over final state court judgments.” 12 *Reusser v. Wachovia Bank, N.A.*, 525 F.3d 855, 858-59 (9th Cir. 2008) (collecting cases). “The 13 clearest case for dismissal based on the Rooker-Feldman doctrine occurs when a federal plaintiff 14 asserts as a legal wrong an allegedly erroneous decision by a state court, and seeks relief from a 15 state court judgment based on that decision.” *Id.* (quoting *Henrichs v. Valley View Dev.*, 474 F.3d 16 609, 613 (9th Cir. 2007)). When a federal court refuses to hear an appeal because of Rooker- 17 Feldman, “it must also refuse to decide any issue raised in the suit that is inextricably intertwined 18 with an issue resolved by the state court in its judicial decision.” *Doe v. Mann*, 415 F.3d 1038, 19 1043 (9th Cir. 2005) (internal quotation marks omitted). 20 Despite Rooker-Feldman, “[i]t has long been the law that a plaintiff in federal court can 21 seek to set aside a state court judgment obtained through extrinsic fraud.” *Kougasian v. TMSL, 22 Inc.*, 359 F.3d 1136, 1141 (9th Cir. 2004). Extrinsic fraud is “conduct which prevents a party 23 from presenting his claim in court.” *Davis v. Davis*, No. 18-cv-00094-RS, 2018 WL 3069308, at 24 *5 (N.D. Cal. Apr. 25, 2018) (citations omitted). “[F]or Rooker-Feldman to apply, a plaintiff 25 must seek not only to set aside a state court judgment; he or she must also allege a legal error by 26 the state court as the basis for that relief.” *Kougasian*, 359 F.3d at 1140 (citing *Noel v. Hall*, 341 27 F.3d 1148, 1164 (9th Cir. 2003)). And “[a] plaintiff alleging extrinsic fraud on a state court is not 28 1 alleging a legal error by the state court; rather, he or she is alleging a wrongful act by the adverse 2 party.” *Id.* at 1140-41 (citing *Noel*, 341 F.3d at 1164). So when “a federal plaintiff asserts as a 3 legal wrong an allegedly illegal act or omission by an adverse party, Rooker-Feldman does not 4 bar jurisdiction.” *Noel*, 341 F.3d at 1164. 5 The gravamen of plaintiff’s complaint is that the state court made a legal error in 6 authorizing the restraining order because it did not let him view the video evidence submitted by 7 Mallori and Shin. As relief, plaintiff specifically asks this court to invalidate the state court’s 8 judgment. See ECF No. 1 at 4. The Rooker-Feldman doctrine squarely prohibits this. And as to 9 plaintiff’s claim that the extrinsic evidence doctrine provides an exception to the Rooker-Feldman 10 doctrine, the court is not persuaded. The complaint alleges that the court made an error by not 11 providing him with the video, not that he was prevented from presenting his claim in court. See 12 *id.* at 3. 13 Plaintiff’s remaining causes of action allege violations of California law. Because the 14 complaint fails to establish diversity jurisdiction, the court’s jurisdiction depends on whether the 15 plaintiff asserts a claim arising under federal law.1

See 28 U.S.C. §§ 1331, 1332; see also *16* *Bautista v. Pan Am. World Airlines, Inc.*, 828 F.2d 546, 552 (9th Cir. 1987) (holding that the 17 complaint must specifically allege diverse citizenship of all parties to invoke diversity 18 jurisdiction). Since plaintiff has not stated a federal claim, I recommend that the court decline to 19 exercise supplemental jurisdiction over plaintiff’s state law claims and dismiss those claims 20 without prejudice. See 28 U.S.C. § 1367(c)(3) (district court may decline supplemental 21 jurisdiction over claim where “court has dismissed all claims over which it has original 22 jurisdiction”); *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 350 n.7 (1988) (“[I]n the usual 23 case in which all federal-law claims are eliminated before trial, the balance of factors to be 24 considered under the pendent jurisdiction doctrine—judicial economy, convenience, fairness, and 25 comity—will point toward declining to exercise jurisdiction over the remaining state-law 26 claims.”); *United Mine Workers of Am. v. Gibbs*, 383 U.S. 715, 726 (1966) (“Needless decisions 27 28 1 The complaint does not allege diversity of the parties. 1 | of state law should be avoided both as a matter of comity and to promote justice between the 2 | parties, by procuring for them a surer-footed reading of the applicable law.”). 3 I will allow plaintiff a chance to amend his complaint before recommending that this 4 | action be dismissed. Plaintiff should also take care to add specific factual allegations against each 5 | defendant. If plaintiff decides to file an amended complaint, the amended complaint will 6 | supersede the current one. See *Lacey v. Maricopa Cnty.*, 693 F.3d 896, 907 n.1 (9th Cir. 2012) 7 | banc). This means that the amended complaint will need to be complete on its face without 8 | reference to the prior pleading. See E.D. Cal. Local Rule 220. Once an amended complaint is 9 | filed, the current one no longer serves any function. Therefore, in an amended complaint, as in 10 | the original, plaintiff will need to assert each claim and allege each defendant’s involvement in 11 | sufficient detail. The amended complaint should be titled “First Amended Complaint” and refer 12 | to the appropriate case number. If plaintiff does not file an amended complaint, I will 13 || recommend that this action be dismissed. 14 Accordingly, it is hereby ORDERED that: 15 1. Plaintiff’s motion to proceed in forma pauperis, ECF No. 2, is GRANTED. 16 2. Plaintiffs complaint, ECF No. 1, is DISMISSED with leave to amend. 17 3. Within thirty days from service of this order, plaintiff shall file either (1) an amended 18 | complaint or (2) notice of voluntary dismissal of this action without prejudice. 19 4. Failure to timely file either an amended complaint or notice of voluntary dismissal may 20 | result in the imposition of sanctions, including a recommendation that this action be dismissed 21 | with prejudice pursuant to Federal Rule of Civil Procedure 41(b). 22 5. The Clerk of Court shall send plaintiff a complaint form with this order. 23 IT IS SO ORDERED. 25 (1 Oy — Dated: _ April 29, 2025 q———

26 JEREMY D., PETERSON

UNITED STATES MAGISTRATE JUDGE

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