

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

Mayes v. San Joaquin County Courts

Mayes · No. 2:24-cv-0459 TLN CKD P · Decided March 20, 2025

OPINION

(PC) Mayes v. San Joaquin County Courts

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 STEDVIENO D'BARGE MAYES, No. 2:24-cv-0459 TLN CKD P

12 Plaintiff,

13 v. ORDER AND

14 SAN JOAQUIN COUNTY COURTS, et. FINDINGS AND RECOMMENDATIONS

al., 15 Defendants. 16 17 Plaintiff is a state prisoner proceeding pro se and seeking relief pursuant to 42 U.S.C. § 18 1983. On February 19, 2025, the court recommended that this action be dismissed for plaintiff's 19 failure to file an amended complaint. Plaintiff actually did file a timely amended complaint, but it 20 was mistakenly filed in another case. Good cause appearing, the court will vacate the February 21 19, 2025, findings and recommendations. 22 As plaintiff already knows, the court is required to screen complaints brought by prisoners 23 seeking relief against a governmental entity or officer or employee of a governmental entity. 28 24 U.S.C. § 1915A(a). The court must dismiss a complaint or portion thereof if the prisoner has 25 raised claims that are legally "frivolous or malicious," that fail to state a claim upon which relief 26 may be granted, or that seek monetary relief from a defendant who is immune from such relief. 27 28 U.S.C. § 1915A(b)(1),(2). 28 /////] As in his original complaint, plaintiff complains about criminal proceedings against him in 2 || San Joaquin County in 2013. There are two main problems with plaintiff's claims. First, the 3 || limitations for § 1983 claims arising in California is two years. *Colony Cove Properties v. City 4 | of Carson*, 640 F.3d 948, 956 (9th Cir. 2011). Second, plaintiff cannot proceed on a §1983 claim 5 || for damages if the claim implies the invalidity of a criminal conviction or sentence. *Heck v. 6 || Humphrey*, 512 U.S. 477, 487 (1994). Plaintiff cannot proceed on a § 1983 claim for damages 7 || concerning a criminal conviction or sentence unless the conviction or sentence has been nullified 8 | in criminal or other proceedings. *Id.* at 486-87. That does not appear to be the case here. 9 Plaintiff's amended complaint must be dismissed for failure to state a claim upon which 10 || relief can be granted. Because the court has already provided

instruction to plaintiff as to how he 11 || might state a claim upon which he can proceed, granting leave to amend a second time appears 12 | futile. Therefore, leave to file a second amended complaint is not granted. 13 In accordance with the above, IT IS HEREBY ORDERED that the court's February 19, 14 || 2025, findings and recommendations are vacated. 15 IT IS HEREBY RECOMMENDED that: 16 1. Plaintiff's amended complaint (ECF No. 21) be dismissed for failure to state a claim 17 || upon which relief can be granted; and 18 2. This case be closed. 19 These findings and recommendations are submitted to the United States District Judge 20 || assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days 21 || after being served with these findings and recommendations, plaintiff may file written objections 22 || with the court. The document should be captioned "Objections to Magistrate Judge's Findings 23 || and Recommendations." Plaintiff is advised that failure to file objections within the specified 24 || time waives the right to appeal the District Court's order. *Martinez v. Ylst*, 951 F.2d 1153 (9th 25 | Cir. 1991). 26 | Dated: March 20, 2025 □□ I / dle ae

1 CAROLYN K. DELANEY

28 snaye0459, ks UNITED STATES MAGISTRATE JUDGE