

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

Riaz v. Henry

No. 1:21-cv-00911-KES-SKO (E.D. Cal. July 28, 2025) · No. 1:21-cv-00911-KES-SKO · Decided July 29,
2025

OPINION

Riaz v. Henry

PER CURIAM.

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7 UNITED STATES DISTRICT COURT

8 EASTERN DISTRICT OF CALIFORNIA

9

10 SAMREEN RIAZ No. 1:21-cv-00911-KES-SKO

11 Plaintiff, ORDER DENYING PLAINTIFF’S MOTION

FOR A NEW TRIAL

12 v. Doc. 101 13 NATHAN HENRY, et al., 14 Defendants. 15 16 Plaintiff Samreen Riaz filed
this action against defendants Nathan Henry, Art Alvarez, 17 Edvin Canto, Ernest Ceballos, the
City of Visalia, and the County of Tulare, bringing federal 18 § 1983 and state law claims
concerning defendants’ seizure and detention of Riaz on a temporary 19 mental health hold under
California Welfare and Institutions Code § 5150. This action proceeded 20 to trial, and, on April 7,
2025, the jury returned a unanimous verdict for the defendants. Doc. 93. 21 Riaz was represented
by counsel Kellan Patterson at trial and in pretrial proceedings. After the 22 trial ended, Patterson
moved to withdraw as counsel based on a breakdown in the attorney-client 23 relationship and
Riaz’s stated intent to move for a new trial based on Patterson’s alleged failure to 24 implement
Riaz’s desired strategic and tactical wishes at trial. See Doc. 85. The Court granted 25 Patterson’s
motion to withdraw, noting that Patterson had fulfilled his obligations to Riaz and had 26 not been
retained to handle any appeal, and that Riaz’s response to the motion to withdraw 27 revealed that
she had numerous strategic and tactical disputes with Patterson’s litigation of the 28 case. See
Doc. 98. 1 Riaz, now proceeding pro se, moves for a new trial.1 Doc. 101. Defendants have filed
2 oppositions and Riaz has filed a reply. Docs. 110–112. For the following reasons, Riaz’s motion
3 is denied. 4 I. Jurisdiction 5 After filing her motion for a new trial on April 28, 2025, Riaz filed a
notice of appeal to 6 the Ninth Circuit. See Docs. 104–105. “As a general rule, a district court is
divested of 7 jurisdiction once a notice of appeal has been filed.” *Morris v. Morgan Stanley & Co.*,
942 F.2d 8 648, 654 (9th Cir. 1991). However, when a notice of appeal is filed after the filing of a
motion 9 for a new trial, the notice of appeal becomes effective when the district court enters its
order on 10 the motion. See Fed. R. App. P. 4(a)(4)(B)(i). Thus, the Court has jurisdiction to

resolve the 11 motion for a new trial. 12 II. Motion for New Trial 13 The Court may grant a new trial on all or some of the issues “after a jury trial, for any 14 reason for which a new trial has heretofore been granted in an action at law in federal court.” 15 Fed. R. Civ. P. 59(a)(1)(A). “Historically recognized grounds include, but are not limited to, 16 claims ‘that the verdict is against the weight of the evidence, that the damages are excessive, or 17 that, for other reasons, the trial was not fair to the party moving.’” *Molski v. M.J. Cable, Inc.*, 481 18 F.3d 724, 728 (9th Cir. 2007) (quoting *Montgomery Ward & Co. v. Duncan*, 311 U.S. 243, 251 19 (1940)). The district court has “considerable discretion in granting or denying the motion.” 20 *Jorgenson v. Cassiday*, 320 F.3d 906, 918 (9th Cir. 2003). On a new trial motion, a district court 21 has the right and duty “to weigh the evidence as [the court] saw it” *Murphy v. City of Long 22 Beach*, 914 F.2d 183, 186 (9th Cir. 1990) (internal citation and quotation omitted). “The judge 23 can weigh the evidence and assess the credibility of witnesses, and need not view the evidence 24 from the perspective most favorable to the prevailing party.” *Landes Constr. Co. v. Royal Bank 25 of Can.*, 833 F.2d 1365, 1371 (9th Cir. 1987). A motion for new trial should be granted “[i]f, 26 27 1 Though Riaz’s motion does not reference Rule 59, it indicates that she is moving for a new trial. See Doc. 101. The Court construes Riaz’s motion to be under Rule 59(a), which governs 28 motions for a new trial. 1 having given full respect to the jury’s findings, the judge on the entire evidence is left with the 2 definite and firm conviction that a mistake has been committed.” *Id.* at 1371–72. 3 Riaz asserted grounds for a new trial all appear to be based on disagreements with her 4 attorney’s decisions, including the alleged failure: (1) to offer certain evidence and declarations, 5 (2) to inform the Court about Riaz’s wish to exclude a juror during voir dire, (3) to request a 6 correction of the Court record following Riaz’s testimony, (4) to object to a jury instruction and 7 question on the verdict form, (5) to call certain witnesses, (6) to provide Riaz a copy of her 8 exhibits and witness list prior to trial, and (7) to inform the Court of an alleged misrepresentation. 9 See generally Doc. 101. To the extent Riaz asserts that a jury instruction or the verdict form were 10 erroneous, her motion fails to identify the jury instruction or portion of the verdict form to which 11 she objects.² 12 Riaz has not identified any authority, nor has this Court found any, supporting her 13 argument that she should be granted a new trial based on her apparent disagreement with her 14 attorney’s trial strategy and tactical decisions. “Where a party to a civil case believes that [her] 15 attorney committed the sort of misconduct alleged in this Motion, the law provides adequate 16 remedies in tort.” *Simplicity Int’l v. Genlabs Corp.*, No. CV 09-06146 SVW (RCx), 2010 WL 17 11515267, at *3 (C.D. Cal. Sept. 9, 2010); see also *Mekdeci v. Merrell Nat’l Laboratories*, 711 18 F.2d 1510, 1522–23 (11th Cir. 1983) (“a party does not have any right to a new trial in a civil suit 19 because of inadequate counsel, but has as its remedy a suit against the attorney for malpractice”); 20 *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P’ship*, 507 U.S. 380, 397 (1993) (parties are 21 “held responsible for the acts and omissions of their chosen counsel.”); cf. *Casey v. Albertson’s 22 Inc.*, 362 F.3d 1254, 1260 (9th Cir. 2004) (“As a general rule, parties are bound by the actions of 23 their lawyers, and alleged attorney malpractice does

not usually provide a basis to set aside a judgment pursuant to Rule 60(b)(1).”). Moreover, Riaz’s attorney effectively presented evidence 25 26 2 In her reply brief, Riaz raises for the first time several issues as to the jury instructions and 27 verdict form. See generally Doc. 112. “The district court need not consider arguments raised for the first time in a reply brief.” *Zamani v. Carnes*, 491 F.3d 990, 997 (9th Cir. 2007). In any 28 event, Riaz’s arguments raised in her reply are meritless. 1 | and made arguments on her behalf at trial.? 2 While Riaz takes issue with strategic and tactical decisions by her attorney during trial, 3 || she fails to establish any grounds for a new trial. Accordingly, Riaz’s motion for new trial, Doc. 4 | 101, is denied. 5

6 | TPIS SO ORDERED. _

7 Dated: _ July 28, 2025 4h | |

UNITED STATES DISTRICT JUDGE

10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 || 3 Additionally, to the extent that Riaz purports to assert a Sixth Amendment claim for ineffective assistance of counsel, there is no such claim in this civil case. See *Nicholson v. Rushen*, 767 F.2d 28 | 1426, 1427 (9th Cir. 1985).