

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Fernando Mazon v. Radu, et al.

Mazon v. Radu · No. 2:25-cv-0554 CKD P · Decided February 28, 2025

SUMMARY

The United States District Court for the Eastern District of California grants Fernando Mazon leave to proceed in forma pauperis in his 42 U.S.C. § 1983 action. After screening the complaint, the court permits him to proceed on a First Amendment retaliation claim against defendant Radu and gives him the option to voluntarily dismiss the remaining claims and defendants or file an amended complaint. The document also includes a notice form for plaintiff to indicate how he wishes to proceed.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Carolyn K. Delaney
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	February 28, 2025
DOCKET	2:25-cv-0554 CKD P
DISPOSITION	other
PROCEDURAL POSTURE	Prisoner civil-rights action under 42 U.S.C. § 1983. The court granted plaintiff leave to proceed in forma pauperis and screened the complaint under 28 U.S.C. § 1915A, finding that plaintiff could proceed on a First Amendment retaliation claim against defendant Radu while permitting plaintiff either to proceed on that claim and voluntarily dismiss the others or amend the complaint.
STANDARD OF REVIEW	Mandatory screening under 28 U.S.C. § 1915A; the complaint must be dismissed in whole or in part if it is frivolous or malicious, fails to state a claim, or seeks monetary relief from an immune defendant.
PRECEDENTIAL VALUE	Unknown; district-court screening order with no reporter citation

TOPICS

- prisoners rights
- section 1983
- first amendment
- pleadings
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether plaintiff satisfied the statutory requirements to proceed in forma pauperis.
2. Whether the complaint stated a potentially cognizable First Amendment retaliation claim against defendant Radu.
3. Whether the complaint stated claims based on confiscation of property, interference with religious exercise, and alleged participation by other defendants.
4. What filing-fee obligations apply to a prisoner proceeding in forma pauperis.

HOLDINGS

1. Plaintiff's request to proceed in forma pauperis is granted because his declaration made the showing required by 28 U.S.C. § 1915(a).
2. At the screening stage, plaintiff may proceed against defendant Radu on a claim for retaliation based on protected conduct arising under the First Amendment.
3. The complaint's allegations concerning confiscation of property, religious exercise, and the alleged participation of defendants other than Radu were deficient as pleaded, although plaintiff was permitted to seek leave to amend.
4. Plaintiff is granted 21 days to choose between proceeding on the identified retaliation claim while voluntarily dismissing the other claims and defendants, or filing an amended complaint attempting to cure the deficiencies.

KEY QUOTATIONS

“The court has reviewed plaintiff’s complaint and finds that plaintiff may proceed on a claim against defendant Radu based upon retaliation for protected conduct arising under the First Amendment.” (at 1)

“The court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity.” (at 1)

“Local Rule 220 requires that an amended complaint be complete in itself without reference to any prior pleading.” (at 2)

FACTUAL BACKGROUND

Fernando Mazon is a state prisoner who filed a pro se § 1983 complaint against Radu and other defendants. The court determined that the allegations were sufficient at the screening stage to permit a claim against Radu for retaliation based on protected conduct under the First Amendment. The court found other allegations deficient, including allegations concerning confiscation of property, religious exercise, and defendants' alleged participation in constitutional violations.

PROCEDURAL HISTORY

Plaintiff, a state prisoner proceeding pro se, filed a § 1983 complaint and requested leave to proceed in forma pauperis. The court granted in forma pauperis status, explained the statutory filing-fee obligations, screened the complaint, identified a potentially cognizable First Amendment retaliation claim against Radu, and directed plaintiff to choose between proceeding on that claim or filing an amended complaint.

DISPOSITION

other

CASES CITED

- Whitley v. Albers, 475 U.S. 312, 319 (1986)
- Shakur v. Schriro, 514 F.3d 878, 884-85 (9th Cir. 2008)
- Jones v. Williams, 791 F.3d 1023, 1031-32 (9th Cir. 2015)
- Ohno v. Yasuma, 723 F.3d 984, 1011 (9th Cir. 2013)
- Rizzo v. Goode, 423 U.S. 362 (1976)
- Ivey v. Board of Regents, 673 F.2d 266, 268 (9th Cir. 1982)

OPINION

(PC)Mazon v. Radu

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 FERNANDO MAZON, No. 2:25-cv-0554 CKD P

12 Plaintiff, 13 v. ORDER 14 RADU, et al., 15 Defendants. 16 17 Plaintiff is a state prisoner
proceeding pro se and seeking relief pursuant to 42 U.S.C. § 1983. This proceeding was
referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 1915(b)(1). 20 Plaintiff requests
leave to proceed in forma pauperis. As plaintiff has submitted a 21 declaration that makes the
showing required by 28 U.S.C. § 1915(a), his request will be granted. 22 Plaintiff is required to
pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. §§ 23 1914(a), 1915(b)(1). By
separate order, the court will direct the appropriate agency to collect the 24 initial partial filing fee
from plaintiff’s trust account and forward it to the Clerk of the Court. 25 Thereafter, plaintiff will
be obligated for monthly payments of twenty percent of the preceding 26 month’s income credited
to plaintiff’s prison trust account. These payments will be forwarded by 27 the appropriate agency
to the Clerk of the Court each time the amount in plaintiff’s account 28 exceeds \$10.00, until the
filing fee is paid in full. 28 U.S.C. § 1915(b)(2). 1 The court is required to screen complaints
brought by prisoners seeking relief against a 2 governmental entity or officer or employee of a
governmental entity. 28 U.S.C. § 1915A(a). The 3 court must dismiss a complaint or portion

thereof if the prisoner has raised claims that are legally 4 “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek 5 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1),(2). 6 The court has reviewed plaintiff’s complaint and finds that plaintiff may proceed on a 7 claim against defendant Radu based upon retaliation for protected conduct arising under the First 8 Amendment. Plaintiff has two options: (1) proceed on the claim identified above; or (2) seek 9 leave to file an amended complaint in an attempt to cure deficiencies with respect to other claims. 10 In deciding whether to file an amended complaint, plaintiff should consider the following: 11 1. The Eighth Amendment prohibits the “the unnecessary and wanton infliction of pain,” 12 *Whitley v. Albers*, 475 U.S. 312, 319 (1986), not confiscation of property. 13 2. In order to state a claim under the Free Exercise Clause of the First Amendment, 14 plaintiff must point to facts demonstrating a substantial burden on his religious exercise. See 15 *Shakur v. Schriro*, 514 F.3d 878, 884-85 (9th Cir. 2008). “A substantial burden ... place[s] more 16 than an inconvenience on religious exercise; it must have a tendency to coerce individuals into 17 acting contrary to their religious beliefs or exert substantial pressure on an adherent to modify his 18 behavior and to violate his beliefs.” *Jones v. Williams*, 791 F.3d 1023, 1031–32 (9th Cir. 2015) 19 (quoting *Ohno v. Yasuma*, 723 F.3d 984, 1011 (9th Cir. 2013)). 20 3. There can be no liability under 42 U.S.C. § 1983 unless there is some affirmative link 21 or connection between a defendant’s actions and the claimed deprivation. *Rizzo v. Goode*, 423 22 U.S. 362 (1976). Furthermore, vague and conclusory allegations of official participation in civil 23 rights violations, like plaintiff’s allegations against defendant Covello, are not sufficient. *Ivey v. 24 Board of Regents*, 673 F.2d 266, 268 (9th Cir. 1982). 25 Finally, plaintiff is informed that the court cannot refer to a prior pleading in order to 26 make plaintiff’s amended complaint complete. Local Rule 220 requires that an amended 27 complaint be complete in itself without reference to any prior pleading. complaint, each claim 28 and the involvement of each defendant must be sufficiently alleged. 1 In accordance with the above, IT IS HEREBY ORDERED that: 2 1. Plaintiff’s request for leave to proceed in forma pauperis (ECF No. 2) is granted. 3 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. All fees 4 || shall be collected and paid in accordance with this court’s order to the Director of the California 5 || Department of Corrections and Rehabilitation filed concurrently herewith. 6 3. Plaintiff is granted 21 days within which to complete and return the attached form 7 || notifying the court whether he wants to (1) proceed on a claim against defendant Radu based 8 | upon retaliation for protected conduct arising under the First Amendment and voluntarily dismiss 9 || all other claims and defendants or (2) file an amended complaint in an attempt to cure the 10 || deficiencies in his complaint with respect to his other claims. If plaintiff does not return the form, 11 | this action will proceed on the claim described above and the court will recommend all other 12 || claims and defendants be dismissed.

13 | Dated: February 28, 2025 / 20 } Kt | / de □ ae

4 CAROLYN K DELANEY

15 UNITED STATES MAGISTRATE JUDGE

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10 UNITED STATES DISTRICT COURT

11 FOR THE EASTERN DISTRICT OF CALIFORNIA

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13 FERNANDO MAZON, No. 2:25-cv-0554 CKD P

14 Plaintiff,

15 v. PLAINTIFF'S NOTICE OF

16 RADU, et al., HOW TO PROCEED 17 Defendants. 18 19 Check one: 20 21 _____ Plaintiff
wants to proceed immediately on a claim against defendant Radu based upon 22 retaliation for
protected conduct arising under the First Amendment. Plaintiff voluntarily 23 dismisses all other
claims and defendants. OR 24 _____ Plaintiff wants time to file an amended complaint. 25
DATED: 26 _____ Plaintiff 27 28