

**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.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 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. § 18 1983. This proceeding was referred to this court by
Local Rule 302 pursuant to 28 U.S.C. § 19 636(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 Amendment. Plaintiff has two options: (1) proceed on the claim identified above; or (2) seek leave to file an amended complaint in an attempt to cure deficiencies with respect to other claims.

In deciding whether to file an amended complaint, plaintiff should consider the following:

1. The Eighth Amendment prohibits the “the unnecessary and wanton infliction of pain,” *Whitley v. Albers*, 475 U.S. 312, 319 (1986), not confiscation of property.

In order to state a claim under the Free Exercise Clause of the First Amendment, plaintiff must point to facts demonstrating a substantial burden on his religious exercise. See *Shakur v. Schriro*, 514 F.3d 878, 884-85 (9th Cir. 2008). “A substantial burden... place[s] more than an inconvenience on religious exercise; it must have a tendency to coerce individuals into acting contrary to their religious beliefs or exert substantial pressure on an adherent to modify his behavior and to violate his beliefs.” *Jones v. Williams*, 791 F.3d 1023, 1031–32 (9th Cir.

2015) (quoting *Ohno v. Yasuma*, 723 F.3d 984, 1011 (9th Cir. 2013)). 3. There can be no liability under 42 U.S.C. § 1983 unless there is some affirmative link or connection between a defendant’s actions and the claimed deprivation. *Rizzo v. Goode*, 423 U.S. 362 (1976). Furthermore, vague and conclusory allegations of official participation in civil rights violations, like plaintiff’s allegations against defendant Covello, are not sufficient.

Ivey v. Board of Regents, 673 F.2d 266, 268 (9th Cir. 1982). Finally, plaintiff is informed that the court cannot refer to a prior pleading in order to make plaintiff’s amended complaint complete. Local Rule 220 requires that an amended complaint be complete in itself without reference to any prior pleading. complaint, each claim and the involvement of each defendant must be sufficiently alleged.

In accordance with the above, IT IS HEREBY ORDERED that:

1. Plaintiff’s request for leave to proceed in forma pauperis (ECF No. 2) is granted.
2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. All fees shall be collected and paid in accordance with this court’s order to the Director of the California Department of Corrections and Rehabilitation filed concurrently herewith.

3. Plaintiff is granted 21 days within which to complete and return the attached form notifying the court whether he wants to (1) proceed on a claim against defendant Radu based upon retaliation for protected conduct arising under the First Amendment and voluntarily dismiss all other claims and defendants or (2) file an amended complaint in an attempt to cure the deficiencies in his complaint with respect to his other claims.

If plaintiff does not return the form, this action will proceed on the claim described above and the court will recommend all other claims and defendants be dismissed. Dated: February 28, 2025 / 20 } Kt | / de □ ae 4 CAROLYN K DELANEY 15 UNITED STATES MAGISTRATE

JUDGE 16 17 18 mnaz00854.0p 19 20 21 22 23 24 25 26 27 28 1 2 3 4 5 6 7 8 9 10 UNITED STATES DISTRICT COURT 11 FOR THE EASTERN DISTRICT OF CALIFORNIA 12 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