

**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

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. § 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 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