

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Whitsitt v. Domus Management Co.

Whitsitt · No. 2:24-cv-0407-DC-JDP (PS) · Decided February 24, 2025

SUMMARY

The United States District Court for the Eastern District of California screened plaintiff William J. Whitsitt’s pro se complaint concerning the denial of a subsidized-housing application. The court granted in forma pauperis status but dismissed the complaint with leave to amend, finding that the claims failed to adequately plead sovereign-immunity waiver, state action, conspiracy, or a municipal policy or custom. Plaintiff was ordered to file an amended complaint or notice of voluntary dismissal within thirty days.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jeremy D. Peterson
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	February 24, 2025
DOCKET	2:24-cv-0407-DC-JDP (PS)
DISPOSITION	other
PROCEDURAL POSTURE	Pro se plaintiff filed a civil-rights complaint and an application to proceed in forma pauperis. The district court screened the complaint under 28 U.S.C. § 1915(e), granted in forma pauperis status, dismissed the complaint for failure to state a viable claim, and granted leave to amend.
STANDARD OF REVIEW	Mandatory screening under 28 U.S.C. § 1915(e); the court assessed whether the complaint was frivolous, malicious, failed to state a claim, or sought monetary relief from an immune defendant, applying the pleading standards of Federal Rule of Civil Procedure 8(a)(2) and the plausibility standard.
PRECEDENTIAL VALUE	nonprecedential

PARTIES

William J. Whitsitt v. Domus Management Co., Housing Authority of the County of San Joaquin, Erica Perez, Casa Manana Inn, United States

TOPICS

section 1983

sovereign immunity

civil rights

pleadings

motions to dismiss

PRACTICE AREAS

civil rights

constitutional law

federal civil procedure

housing law

QUESTIONS PRESENTED

1. Whether the complaint stated a viable claim against the United States despite sovereign immunity.
2. Whether the complaint stated a claim under 42 U.S.C. § 1983 against Domus Management Company, Erica Perez, or Casa Manana Inn by adequately alleging action under color of state law and a constitutional deprivation.
3. Whether conclusory allegations of a conspiracy between private parties and state actors were sufficient to establish § 1983 liability.
4. Whether the complaint adequately pleaded a municipal-liability claim against the San Joaquin County Housing Authority by identifying a policy or custom causing the alleged constitutional violations.
5. Whether the complaint should be dismissed at in forma pauperis screening and whether leave to amend should be granted.

HOLDINGS

1. The claims against the United States failed because the complaint identified no unequivocal waiver of sovereign immunity, and the United States has not waived immunity from damages actions for constitutional violations.
2. The complaint failed to state a § 1983 claim against Domus Management Company, Erica Perez, or Casa Manana Inn because it did not adequately allege that they acted under color of state law.
3. Conclusory allegations that private defendants conspired with state actors were insufficient to state a § 1983 claim.
4. The complaint did not state a municipal-liability claim because plaintiff identified no municipal policy or custom that caused the alleged constitutional violations.
5. The complaint was dismissed for failure to state a claim, with leave to amend; plaintiff was given thirty days to file an amended complaint or voluntarily dismiss the action without prejudice.

KEY QUOTATIONS

“A complaint must contain a short and plain statement that plaintiff is entitled to relief, and provide “enough facts to state a claim to relief that is plausible on its face,”” (1)

“A § 1983 claim requires two essential elements: (1) the conduct that harms the plaintiff must be committed under color of state law (i.e., state action), and (2) the conduct must deprive the plaintiff of a constitutional right.” (2)

“the complaint contains nothing more than conclusory allegations of a civil conspiracy, which are insufficient to state a claim against any named defendant under 42 U.S.C. § 1983.” (2)

FACTUAL BACKGROUND

The San Joaquin County Housing Authority allegedly found Whitsitt eligible for subsidized housing, but Domus Management Company denied his application to Casa Manana Apartments. Whitsitt alleged that he did not receive notice explaining the denial and asserted a conspiracy among Domus, federal and state housing authorities, and Erica Perez. He brought claims under 42 U.S.C. § 1983 and RICO, including claims concerning housing, due process, retaliation, contracting, and discrimination.

PROCEDURAL HISTORY

Whitsitt filed a complaint alleging constitutional, civil-rights, RICO, contract, and housing-discrimination violations arising from the denial of a subsidized-housing application. The court conducted mandatory screening because plaintiff sought to proceed in forma pauperis. It dismissed the complaint with leave to amend and allowed thirty days to file an amended complaint or a notice of voluntary dismissal.

DISPOSITION

other

CASES CITED

- United States v. Mitchell, 463 U.S. 206, 212 (1983)
- United States v. Mitchell, 445 U.S. 535, 538 (1980)
- Holloman v. Watt, 708 F.2d 1399, 1401 (9th Cir. 1983)
- Thomas-Lazear v. F.B.I., 851 F.2d 1202, 1207 (9th Cir. 1988)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678-679 (2009)
- Kobold v. Good Samaritan Regional Medical Center, 832 F.3d 1024, 1038 (9th Cir. 2016)
- Nagrampa v. MailCoups, Inc., 469 F.3d 1257, 1264 n.2 (9th Cir. 2006) (en banc)
- Haines v. Kerner, 404 U.S. 519, 520 (1972) (per curiam)
- Hayes v. Idaho Correctional Center, 849 F.3d 1204, 1208 (9th Cir. 2017)
- Bruns v. National Credit Union Administration, 122 F.3d 1251, 1257 (9th Cir. 1997)
- Ivey v. Board of Regents, 673 F.2d 266, 268 (9th Cir. 1982)
- West v. Atkins, 487 U.S. 42, 48 (1988)
- Ketchum v. Alameda County, 811 F.2d 1243, 1245 (9th Cir. 1987)
- Simmons v. Sacramento County Superior Court, 318 F.3d 1156, 1161 (9th Cir. 2003)

- Price v. Hawaii, 939 F.2d 702, 708 (9th Cir. 1991)
- Monell v. Department of Social Services, 436 U.S. 658, 691, 694 (1978)

OPINION

(PS) Whitsitt v. Domus Management Co

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 WILLIAM J. WHITSITT, Case No. 2:24-cv-0407-DC-JDP (PS) 12 Plaintiff, 13 v. ORDER
 14 DOMUS MANAGEMENT CO., et al., 15 Defendants. 16 17 Plaintiff alleges that defendants
 Domus Management Company, Housing Authority of the 18 County of San Joaquin, Erica Perez,
 Casa Manana Inn, and the United States violated his 19 constitutional rights. As articulated, the
 complaint does not state a viable claim. Therefore, I will 20 dismiss the complaint with leave to
 amend. Plaintiff’s application to proceed in forma pauperis 21 makes the required showing and
 will be granted. 22 Screening and Pleading Requirements 23 A federal court must screen the
 complaint of any claimant seeking permission to proceed 24 in forma pauperis. See 28 U.S.C. §
 1915(e). The court must identify any cognizable claims and 25 dismiss any portion of the
 complaint that is frivolous or malicious, fails to state a claim upon 26 which relief may be granted,
 or seeks monetary relief from a defendant who is immune from such 27 relief. Id. 28 A complaint
 must contain a short and plain statement that plaintiff is entitled to relief, 1 Fed. R. Civ. P. 8(a)(2),
 and provide “enough facts to state a claim to relief that is plausible on its 2 face,” Bell Atl. Corp. v.
 Twombly, 550 U.S. 544, 570 (2007). The plausibility standard does not 3 require detailed
 allegations, but legal conclusions do not suffice. See Ashcroft v. Iqbal, 556 U.S. 4 662, 678 (2009).
 If the allegations “do not permit the court to infer more than the mere 5 possibility of misconduct,”
 the complaint states no claim. Id. at 679. The complaint need not 6 identify “a precise legal
 theory.” Kobold v. Good Samaritan Reg’l Med. Ctr., 832 F.3d 1024, 7 1038 (9th Cir. 2016).
 Instead, what plaintiff must state is a “claim”—a set of “allegations that 8 give rise to an
 enforceable right to relief.” Nagraampa v. MailCoups, Inc., 469 F.3d 1257, 1264 9 n.2 (9th Cir.
 2006) (en banc) (citations omitted). 10 The court must construe a pro se litigant’s complaint
 liberally. See Haines v. Kerner, 404 11 U.S. 519, 520 (1972) (per curiam). The court may dismiss a
 pro se litigant’s complaint “if it 12 appears beyond doubt that the plaintiff can prove no set of facts
 in support of his claim which 13 would entitle him to relief.” Hayes v. Idaho Corr. Ctr., 849 F.3d
 1204, 1208 (9th Cir. 2017). 14 However, “a liberal interpretation of a civil rights complaint may
 not supply essential elements 15 of the claim that were not initially pled.” Bruns v. Nat’l Credit
 Union Admin., 122 F.3d 1251, 16 1257 (9th Cir. 1997) (quoting Ivey v. Bd. of Regents, 673 F.2d
 266, 268 (9th Cir. 1982)). 17 Analysis 18 Plaintiff alleges that defendant San Joaquin County
 Housing Authority found him eligible 19 for subsidized housing, but that defendant Domus

Management Company denied his housing application to Casa Manana Apartments. ECF No. 1 at 1-3. Plaintiff claims that he did not receive notice as to why his application was denied by Domus. Id. at 3. He further claims that there is a conspiracy between Domus, federal and state housing authorities, and Erica Perez of the San Joaquin County Housing Authority. Id. at 2, 4. He brings claims under 42 U.S.C. § 1983 and Racketeer Influenced and Corrupt Organizations Act (“RICO”). Specifically, plaintiff claims that defendants (1) denied his right to housing; (2) violated his substantive due process rights when he was denied housing without a hearing and prior notice; (3) failed to protect his rights; (4) retaliated against him for his RICO claims; (5) denial of his right to contract; and (6) housing discrimination. 1 Plaintiff’s complaint fails to state a claim. As a sovereign, the United States is immune 2 from suit unless it has consented to suit and waived immunity. *United States v. Mitchell*, 463 U.S. 206, 212 (1983). “A waiver of sovereign immunity cannot be implied but must be 4 unequivocally expressed.” *United States v. Mitchell*, 445 U.S. 535, 538 (1980) (internal quotation 5 marks and citation omitted). “The party who sues the United States bears the burden of pointing 6 to such an unequivocal waiver of immunity.” *Holloman v. Watt*, 708 F.2d 1399, 1401 (9th Cir. 7 1983). Because the United States “has not waived its sovereign immunity in actions seeking 8 damages for constitutional violations” plaintiff’s claim against the United States fails. See 9 *Thomas-Lazear v. F.B.I.*, 851 F.2d 1202, 1207 (9th Cir. 1988). 10 Plaintiff’s claims against defendants Domus Management Company, Erica Perez, or Casa 11 Manana Inn are also not cognizable. Plaintiff must allege that each was acting under the color of 12 state law in order to sue them under 42 U.S.C. § 1983. See *West v. Atkins*, 487 U.S. 42, 48 13 (1988); *Ketchum v. Alameda Cnty.*, 811 F.2d 1243, 1245 (9th Cir. 1987) (“A § 1983 claim 14 requires two essential elements: (1) the conduct that harms the plaintiff must be committed under 15 color of state law (i.e., state action), and (2) the conduct must deprive the plaintiff of a 16 constitutional right.”). Plaintiff has not done so. However, he seems to suggest that Domus, 17 Casa, and Perez were engaged in a conspiracy with state actors to violate this constitutional 18 rights. But the complaint contains nothing more than conclusory allegations of a civil conspiracy, 19 which are insufficient to state a claim against any named defendant under 42 U.S.C. § 1983. See 20 *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (emphasizing that the court is not 21 required to “accept as true a legal conclusion couched as a factual allegation”) (internal quotation 22 and citation omitted); *Simmons v. Sacramento Cty. Superior Ct.*, 318 F.3d 1156, 1161 (9th Cir. 23 2003) (holding that “conclusory allegations that the lawyer was conspiring with state officers to 24 deprive him of due process are insufficient” to state a claim); *Price v. Hawaii*, 939 F.2d 702, 708 25 (9th Cir. 1991) (requiring something more than conclusory assertions of a civil conspiracy 26 between a private party and a state actor in order to establish § 1983 liability). 27 Moreover, plaintiff has not linked any asserted constitutional violations to the San Joaquin 28 Housing Authority. Plaintiff has identified no municipal policy or custom leading to the asserted 1 | violation of his rights. As a result, there is no properly pled Monell claim. See *Monell v. Dep’t of 2 | Social Services*, 436 U.S. 585 at 691, 694

(1978). 3 Accordingly, it is hereby ORDERED that: 4 1. Plaintiffs application to proceed in forma pauperis, ECF No. 2, is GRANTED. 5 2. Plaintiffs complaint, ECF No. 1, is DISMISSED with leave to amend. 6 3. Within thirty days from service of this order, plaintiff shall file either (1) an amended 7 | complaint or (2) notice of voluntary dismissal of this action without prejudice. 8 4. Failure to timely file either an amended complaint or notice of voluntary dismissal may 9 | result in the imposition of sanctions, including a recommendation that this action be dismissed 10 || with prejudice pursuant to Federal Rule of Civil Procedure 41(b). 11 5. The Clerk of Court shall send plaintiff a complaint form with this order. 12 3 IT IS SO ORDERED. 14 (iy - Dated: _ February 24, 2025 q——

15 JEREMY D. PETERSON

16 UNITED STATES MAGISTRATE JUDGE

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