

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

Marin v. De La Torre, et al.

Case Nos. 3:25-cv-0600-CAB-BLM, 3:25-cv-1242-CAB-DDL, and 3:25-cv-1248-CAB-DDL (S.D. Cal. May
23, 2025) · No. 3:25-cv-0600-CAB-BLM; 3:25-cv-1242-CAB-DDL; 3:25-cv-1248-CAB-DDL · Decided May
23, 2025

OPINION

Marin v. De La Torre

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 MEL MARIN, Case No.: 3:25-cv-0600-CAB-BLM Case No.: 3:25-cv-1242-CAB-DDL 12
Plaintiff, Case No.: 3:25-cv-1248-CAB-DDL 13 v. ORDER: 14 JOHN BAHR, et al., 15
Defendants, (1) GRANTING MOTIONS TO PROCEED IFP; 16

17 (2) DENYING MOTION TO

WITHDRAW REFERENCE; and

18

19 (3) DISMISSING COMPLAINTS

WITH PREJUDICE

20 21

MEL MARIN,

22 Plaintiff, 23 v. 24 25 RONALD FRAZIER, et al., 26 Defendants, 27 28 1

1 MEL MARIN,

2 Plaintiff, 3 v. 4 ADELLA DE LA TORRE, et al., 5 Defendants, 6 7 8 Plaintiff Mel Marin1 is a
serial, pro se litigator in this district and others around the 9 country for the last three decades.
See, e.g., Marin v. Escondido Care Ctr., No. 3:11-cv- 10 1610-AJB-JMA, 2012 WL 5463688, at
*2 n. 3 (S.D. Cal. Nov. 7, 2012) (compiling over 11 forty state, district, and appellate cases
brought by Marin that resulted in dismissal or 12 affirmation of dismissal). Various courts,
including one in this district, have held Plaintiff 13 to be a vexatious litigant and barred him from
filing litigation relating to various causes of 14 action without seeking leave from the court. See,
e.g., Marin v. Escondido Care Ctr., 3:11- 15 cv-1610-AJB-JMA (S.D. Cal. Dec. 20, 2012), Doc.
No. 33; see also Marin v. Trumbull 16 County Prob. Ct., 2012 WL 1593230 (2012–Ohio–2011)
(dismissing Marin’s complaint 17 because of his status as a vexatious litigant). In addition to the
three cases addressed by 18 the Court in this order, Plaintiff has at least five other cases pending
with other courts in 19 this district. See, e.g., 3:23-cv-02118-DMS-MMP (Marin v. Viernes, et al.);

3:25-cv- 20 01240-RSH-VET (Marin v. The People's Republic of China); 3:24-cv-01651-JAH-DTF 21 (Marin v. Rajaram, et al.). Plaintiff did not prepay the civil filing fees required by 28 22 U.S.C. § 1914(a) at the time of filing; instead, he filed motions to proceed in forma pauperis 23 (“IFP”) pursuant to 28 U.S.C. § 1915(a). [Marin v. Bahr, et al., 3:25-cv-0600-CAB-BLM 24 25 26 27 1 Plaintiff presents his name variably in different cases as Mel Marin, Melvin M. Marin, Melvin Milivoj Marin, Melvin Marinkovic, and more. 28 2 1 (“Marin I”), Doc. No. 2.; Marin v. Frasier, et al., 3:25-cv-1242-CAB-DDL (“Marin II”), 2 Doc. No. 2; Marin v. De La Torre, et al., 3:25-cv-1248-CAB-DDL (“Marin III”), Doc. No. 3 2.] For the reasons outlined below, the Court GRANTS Plaintiff’s IFP motions, DENIES 4 Plaintiff’s motion to withdraw reference, and DISMISSES the complaints against Frazier, 5 et al., and De La Torre, et al. 6 I. Motion to Proceed IFP 7 Generally, all parties instituting a civil action in this Court must pay a filing fee. See 8 28 U.S.C. § 1914(a); CivLR 4.5(a). But under 28 U.S.C. § 1915(a), the Court may 9 authorize any suit’s commencement, prosecution, or defense without payment of fees if the 10 plaintiff submits an affidavit, including a statement of all his or her assets, showing he or 11 she is unable to pay filing fees or costs. “An affidavit in support of an IFP application is 12 sufficient where it alleges that the affiant cannot pay the court costs and still afford the 13 necessities of life.” Escobedo v. Applebees, 787 F.3d 1226, 1234 (9th Cir. 2015). “[A] 14 plaintiff seeking IFP status must allege poverty with some particularity, definiteness and 15 certainty.” Id. (internal quotation marks omitted). Granting or denying leave to proceed 16 IFP in civil cases is within the district court’s sound discretion. See Venable v. Meyers, 17 500 F.2d 1215, 1216 (9th Cir. 1974) (citations omitted). 18 Plaintiff states his monthly income at \$1,315 from retirement and disability benefits. 19 [Marin II, Doc. No. 2 at 2.] He states his monthly expenses at \$1,540 with sufficient 20 particularity. [Marin II, Doc. No. 2 at 5.] His IFP applications are all nearly identical. 21 [See Marin I, Doc. No. 2; Marin III, Doc. No. 2.] As Plaintiff is unable to pay court costs 22 and still afford life necessities, the Court GRANTS his applications. 23 II. Screening of the Complaint Pursuant to 42 U.S.C. § 1915(e)(2)(B) 24 A plaintiff seeking to proceed IFP pursuant to 28 U.S.C. § 1915(a) is subject to sua 25 sponte dismissal if the complaint is “frivolous or malicious; fails to state a claim on which 26 relief may be granted; or seeks monetary relief against a defendant who is immune from 27 such relief.” 28 U.S.C. § 1915(e)(2)(B); Calhoun v. Stahl, 254 F.3d 845, 845 (9th Cir. 28 3 1 2001) (“[T]he provisions of 28 U.S.C. § 1915(e)(2)(B) are not limited to prisoners.”); 2 Lopez v. Smith, 203 F.3d 1122, 1127 (9th Cir. 2000) (en banc) (“[S]ection 1915(e) not only 3 permits but requires a district court to dismiss an in forma pauperis complaint that fails to 4 state a claim.”). Congress enacted this safeguard because “a litigant whose filing fees and 5 court costs are assumed by the public . . . lacks an economic incentive to refrain from filing 6 frivolous, malicious, or repetitive lawsuits.” Denton v. Hernandez, 504 U.S. 25, 31 (1992) 7 (quoting Neitzke v. Williams, 490 U.S. 319, 324 (1989)). 8 A. Marin v. Bahr 9 On March 13, 2025, Plaintiff filed a motion for withdrawal of reference of 10 bankruptcy case “24-4690-JBM 13.” [Marin I, Doc. No. 1.] Withdrawal is mandatory 11 when the court must interpret a non-title

11 statute or “undertake analysis of significant 12 open and unresolved issues regarding [] non-
title 11 law” and “other laws of the United 13 States regulating organizations or activities affecting
interstate commerce.” See *In re 14 Tamalpais Bancorp*, 451 B.R. 6, 8–9 (N.D. Cal. 2011); see also
28 U.S.C. § 157(d). 15 Withdrawal is permissive “for cause shown.” 28 U.S.C. § 157(d). 16
Plaintiff’s motion is rambling, confusing, and largely incomprehensible. Plaintiff 17 states that he
seeks to withdraw bankruptcy proceedings 24-90106-JBM, 24-90107-JBM, 18 and 25-90011-
JBM, which pertain to quieting and turning over title on a home Plaintiff’s 19 sister owned and
discharging student loans. Plaintiff complains that Wells Fargo 20 foreclosed the home and
evicted Plaintiff. He also states that he “seeks to void an adverse 21 decision of this district court
in *Marin v. Bahr*, 23-cv-336 (S.D. Cal. June 24, 2024) and 22 other federal court dismissals
unrelated to these parties.” [Doc. No. 1-1 at 15.] Plaintiff 23 also seeks to challenge a state
vexatious litigant statute as violating the Supremacy Clause. 24 Plaintiff fails to demonstrate that
any non-title 11 statute needs to be interpreted, or 25 any significant and unresolved non-title 11
issue/statute needs to be analyzed in his 26 bankruptcy case(s). He argues that a tolling issue
necessitates withdrawal of reference, 27 confusingly stating that this “federal issue giv[es] the
bankruptcy court power to void the 28 4 1 state judgment against sister in 2019 which was based
on the state Judge Frazier refusing 2 to toll statutes of limitation for sister.” [*Marin I*, Doc. No. 1-1
at 3–4.] Beyond the fact 3 that Plaintiff does not make clear what the precise, relevant non-title 11
issue is, Plaintiff’s 4 goal of overturning decisions by other district courts and state courts through
his 5 bankruptcy case, whether with the bankruptcy court or this Court, has no legal basis. See 6
MacKay v. Pfeil, 827 F.2d 540, 543 (9th Cir. 1987) (holding that federal courts “may not 7 serve
as appellate tribunals to review errors allegedly committed by state courts”); see also 8 *Holgersen*
v. Paramo, No. 3:19-cv-02286-JLS-RBB, 2020 WL 434316, at *2 (S.D. Cal.
9 Jan. 28, 2020) (a district court “cannot overturn or modify the decision of another District
10 Court.”). 11 Furthermore, Plaintiff argues that Defendant Vanguard’s alleged fraudulent
transfer 12 of the house deed affects interstate commerce because it was done through either mail,
13 wire, or the internet. Plaintiff’s case citations and parentheticals for this assertion provide 14
zero support and appear largely irrelevant to the argument he makes. Regardless, the Court 15 is
unconvinced that this is sufficient to withdraw the reference. Indeed, “[h]aving the 16 bankruptcy
court submit proposed findings of facts and conclusions of law in fraudulent 17 conveyance cases
‘promotes judicial economy and efficiency by making use of the 18 bankruptcy court’s unique
knowledge of Title 11 and familiarity with the actions before 19 them.’” *In re We Ins. Servs., Inc.*,
No. 3:19-cv-1007-CAB-NLS, 2019 WL 2436428, at *3 20 (S.D. Cal. June 11, 2019) (denying
motion to withdraw reference) (citing *In re 21 Healthcentral.com*, 504 F.3d 775, 787–88 (9th Cir.
2007)). Plaintiff’s motion is DENIED. 22 B. *Marin v. Frazier* 23 On May 14, 2025, Plaintiff filed
a complaint against Defendants Superior Court 24 Judge Ronald Frazier, Sheriff Kelley Martinez,
San Diego County, The Vanguard Group, 25 and John Bahr for various constitutional violations.
[See generally, *Marin II*, Doc. No. 1.] 26 Like his other filings, Plaintiff’s complaint is convoluted

and difficult to follow. Plaintiff 27 complains that Judge Frazier “applied that Scarlet Letter . . . to deny this plaintiff’s 28 5 1 application for that minimally paid almost volunteer work.” Plaintiff appears to be 2 referring to his classification as a vexatious litigant in San Diego County courts, but as to 3 what volunteer work or situation Plaintiff is referencing, the Court cannot glean. 4 Nonetheless, Plaintiff’s claims are conclusory as he merely alleges that “Judge Frazier 5 violated the due process clause of the 14[th] amendment to the Constitution by punishing 6 this plaintiff in his personal life and professionally, for . . . filing [] lawsuits.” [Marin II, 7 Doc. No. 1 at 4.] He seeks damages and an injunction against Judge Frazier. Judges are 8 “absolutely immune from liability” for actions taken within the scope of their judicial 9 authority. *Stump v. Sparkman*, 435 U.S. 349, 359 (1978). As Plaintiff appears to challenge 10 Judge Frazier for his judicial conduct, Judge Frazier is entitled to immunity. Accordingly, 11 Plaintiff’s claims against him are dismissed. See *D.C. Ct. of Appeals v. Feldman*, 460 U.S. 12 462, 482 (1983) (holding that district courts cannot review state court actions). 13 The claims against the remaining Defendants are similarly meritless. Against San 14 Diego County, Plaintiff cites multiple alleged actions in state court proceedings that he 15 asserts constitute constitutional violations, such as the “Court of Appeal for the 4th District 16 refusing to allow [] plaintiff an appeal” and “refusing to rule on [] plaintiff’s motion to seal 17 his medical records.” [Marin II, Doc. No. 1 at 13.] Against Sheriff Martinez, John Bahr, 18 and the rest, Plaintiff alleges a “cabal” stole Plaintiff’s home through a forged deed and 19 that the Sheriff failed to stop their deputy from facilitating the theft and break in. [Marin 20 II, Doc. No. 1 at 15.] Plaintiff appears to be referencing a foreclosure and eviction², which 21 he is apparently challenging in bankruptcy court. Plaintiff’s claims are fanciful and 22 conclusory, and he fails to provide any facts demonstrating that the alleged foreclosure and 23 eviction constitute violations of the First and Fourteenth Amendments. Plaintiff’s 24 complaint is DISMISSED with prejudice. 25 26 27 2 Plaintiff states that the basis for the eviction was “the supposed failure of plaintiff’s privy Bauman to timely answer the eviction complaint by August 1, 2024.” [Marin II, Doc. No. 1 at 15.] 28 6 1 C. Marin v. De La Torre 2 On May 15, 2025, Plaintiff filed a complaint against Defendants Adella De La Torre, 3 president of San Diego State University, and The California State University. Plaintiff 4 alleges that Defendants violated the Americans with Disabilities Act (“ADA”), the 5 Rehabilitation Act (“RA”), and the First and Fourteenth Amendments when they allegedly 6 refused him an accommodation before he registered for classes. 7 Plaintiff alleges he was denied accommodation as retaliation for filing a lawsuit 8 against Defendants years earlier for a similar disability accommodation claim. The district 9 court granted summary judgment for Defendant Board of Trustees of the California State 10 University in that case last year as Plaintiff did not “meet the requisite standards to 11 participate in the educational programming.” *Marin v. Bd. of Trs. of California State Univ.*, 12 No. 3:21-cv-01445-JO-MMP, 2024 WL 3732043, at *2 (S.D. Cal. Aug. 8, 2024). The 13 court dismissed the case with prejudice. *Id.* at 3. Plaintiff’s claims here are insufficient to 14 survive dismissal as they consist of wholly conclusory statements and are riddled with other 15

pleading shortfalls. 16 Plaintiff does not plead what his protected disability is under the ADA or RA,³ what 17 accommodation he sought from Defendants, what classes he sought to register for, what 18 the classes' requisite standards were and how he met them, or any facts that indicate he 19 was discriminated against because of his disability or that Defendants were deliberately 20 indifferent to his disability. See *McGary v. City of Portland*, 386 F.3d 1259, 1265 (9th Cir. 21 2004); see also *Bresaz v. County of Santa Clara*, 136 F. Supp. 3d 1125, 1135–36 (N.D.

22 Cal. 2015) (“Where . . . a party alleges that he . . . is disabled under the ADA, courts have 23 generally required the party to plead the disability with some factual specificity.”); see also 24 25 26 3 Plaintiff merely states that “a half-dozen medical specialists have signed written statements verifying 27 that Mel has a disability described under Title 42 United States Code Section § [sic] 12102.” He does not incorporate or attach these statements nor describe his alleged disability. 28 7 1 *Zukle v. Regents of Univ. of California*, 166 F.3d 1041, 1045 n. 11 (9th Cir. 1999) (“There 2 is no significant difference in the analysis of the rights and obligations created by the ADA 3 and the Rehabilitation Act.”). 4 Plaintiff admits that Defendants directed him to pay for the classes first, as is 5 apparently required to register, but he did not because that “was just a pretext or ‘cover 6 story’ excuse to discriminate . . . because [he] already did pay for a class in February 2020 7 and [Defendants] refused to direct the disabilities office to process it.” [Marin III, Doc.

8 No. 1 at 6.] Plaintiff appears to be referring to the events that were the impetus for his 9 earlier, dismissed claim against the same Defendants. Moreover, to recover monetary 10 damages under Title II of the ADA as Plaintiff seeks, he must prove intentional 11 discrimination through deliberate indifference. See *Duvall v. County of Kitsap*, 260 F.3d 12 1124, 1138 (9th Cir. 2001). Plaintiff’s attempted showing of deliberate indifference rests 13 on the statement that Defendants “[did] nothing, except to demand money.” [Marin III, 14 Doc. No. 1 at 8.] This is insufficient. 15 Lastly, Plaintiff’s constitutional claim that Defendants retaliated against him for 16 requesting an accommodation similarly fails. For a First Amendment retaliation claim, 17 Plaintiff must plausibly allege that Defendants’ adverse action was motivated as a response 18 to Plaintiff’s exercise of a constitutionally protected right. See *Soranno’s Gasco, Inc. v. 19 Morgan*, 874 F.2d 1310, 1314 (9th Cir. 1989). However, the closest thing he offers is the 20 conclusory statement that Defendants “pursued deliberate punishment . . . for his 21 complaints about the college’s disabilities violations.” [Marin III, Doc. No. 1 at 10.] 22 Plaintiff also nominally includes the Fourteenth Amendment in his cause of action but does 23 not address how it is implicated in any manner, only stating “[Plaintiff] seeks and is entitled 24 to . . . remedies . . . based on these violations of due process and retaliation under the 1st 25 and 14th Amendments to the Constitution.” [Marin III, Doc. No. 1 at 12.] As Plaintiff 26 fails to satisfy the requirements to establish any ADA, RA, or constitutional claim, the 27 Court DISMISSES the complaint with prejudice. 28 8

I HI. CONCLUSION

2 Plaintiff's IFP applications are GRANTED, his motion for withdrawal of reference 3 DENIED,
and his complaints in Marin v. Frazier and Marin v. De La Torre are 4 || DISMISSED with
prejudice. 5 It is SO ORDERED. 6 7 Dated: May 23, 2025 € Zz 8 Hon. Cathy Ann Bencivengo ?
United States District Judge 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 Case No.:
3:25-cv-0600-CAB-BLM Case No.: 3:25-cv-1242-CAB-DDL