

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Roman v. Jackson

Roman · No. 1:23-cv-00671-KES-SAB (PC) · Decided May 15, 2025

SUMMARY

The United States Magistrate Judge recommends denying Isidro Roman’s motion to amend his § 1983 complaint and denying as unnecessary his motion to extend the amendment deadline. The proposed amendment was found to unduly delay and prejudice the litigation, seek to revive previously dismissed claims and defendants, and be futile because the due process claims were barred by Heck v. Humphrey and improperly combined habeas and civil-rights theories.

OPINION

(PC) Roman v. Eaton

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10

11 ISIDRO ROMAN, No. 1:23-cv-00671-KES-SAB (PC)

12 Plaintiff, FINDINGS AND RECOMMENDATIONS

RECOMMENDING PLAINTIFF’S MOTION

13 v. TO AMEND BE DENIED

14 K. JACKSON (ECF No. 42, 44, 45)

15 Defendant. 16

17 Plaintiff is proceeding pro se and in forma pauperis in this action filed pursuant to 42 18 U.S.C.
§ 1983. 19 Currently before the Court is Plaintiff’s motion for an extension of time to file an 20
amended complaint and Plaintiff’s motion for leave to file an amended complaint, filed March 13,
21 2025 and April 10, 2025, respectively. (ECF Nos. 42, 44.) On April 10, 2025, Plaintiff also 22
submitted a proposed amended complaint which was lodged. (ECF No. 45.) 23 I.

24 BACKGROUND

25 This action proceeds on Plaintiff’s retaliation claim against Defendant K. Jackson. (ECF
26 No. 22.)

27 On October 14, 2024, Defendant file an answer to the complaint. (ECF No. 32.) After an 28
unsuccessful settlement conference, the Court issued the discovery and scheduling order on
1 January 8, 2025. (ECF Nos. 38, 41.)

2 On March 13, 2025, Plaintiff filed a motion for an extension of time to file an amended 3
complaint. (ECF No. 42.) Defendant filed an opposition on April 3, 2025. (ECF No. 43.) 4 On
April 10, 2025, Plaintiff filed a motion for leave to file an amended complaint. (ECF
5 No. 44.) Defendant filed an opposition on April 29, 2025, and Plaintiff filed a reply on May 12,
6 2025. (ECF Nos. 46, 48.) 7 On May 8, 2025, Defendant filed a motion for summary judgment
for failure to exhaust 8 the administrative remedies. (ECF No. 47.) 9 II.

10 LEGAL STANDARD

11 The Court issued a pre-trial discovery and scheduling order and Defendants filed an 12 answer
to the complaint. Thus, both Rules 16 and 15 of the Federal Rules of Civil Procedure 13 apply to
analyzing the instant motion. See *Johnson v. Mammouth Recreations, Inc.*, 975 F.2d 14 604, 609
(9th Cir. 1992)(noting once the district court issues a scheduling order, Rule 16 requires 15 the
party seeking to amend to show “good cause” for the amendment and once that is found then 16
the party must demonstrate that amendment is proper under Rule 15)(citing *Financial Holding 17*
Corp. v. Garnac Grain Co., 127 F.R.D. 165, 166 (W.D. Mo. 1989)(same)). 18 Under Rule 15(a)(2),
“a party may amend its pleading only with the opposing party's 19 written consent or the court's
leave” and the “court should freely give leave when justice so 20 requires.” Leave to amend
should be denied if amendment: (1) would cause prejudice to the 21 opposing party; (2) is sought
in bad faith; (3) would create undue delay, or (4) is futile. *Chudacoff 22 v. Univ. Med. Ctr. of S.*
Nevada, 649 F.3d 1143, 1152 (9th Cir. 2011)(citations omitted); see also 23 *Saul v. United States*,
928 F.2d 829, 843 (9th Cir. 1991)(noting a “district court does not err in 24 denying leave to
amend where the amendment would be futile.”); *Moore v. Kayport Package 25 Express*, 885 F.2d
531, 538 (9th Cir. 1989). A “district court does not err in denying leave to 26 amend where the
amendment would be futile.” *Saul v. United States*, 928 F.2d 829, 843 (9th Cir. 27 1991). The
burden to demonstrate prejudice falls on the party opposing amendment. *DCD 28 Programs, Ltd*
v. Leighton 833 F.2d 183, 187 (9th Cir. 1987). Absent prejudice, or a strong 1 showing of any of
the remaining three factors, a presumption exists under Rule 15(a) is in favor 2 of granting leave
to amend. *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th
3 Cir. 2003).

4 “[A p]laintiff may not change the nature of [a] suit by adding new, unrelated claims in 5 [an]
amended complaint.” *Evans v. Neuhring*, No. 2:09-cv-00292 TLN AC, 2006 WL 7159246, 6 at *2
(E.D. Cal. Dec. 7, 2016) (internal citations omitted). “Unrelated claims that involve 7 difference
defendants must be brought in separate lawsuits.” *Id.* 8 Futility alone may be grounds for denying
leave to amend. *Steckman v. Hart Brewing, 9 Inc.*, 143 F.3d 1293, 1298 (9th Cir. 1998); *DCD*
Programs, Ltd v. Leighton, 833 F.2d 183, 188 10 (9th Cir. 1987) (quoting *Klamath-Lake Pharm.*
Ass’n v. Klamath Med. Serv. Bureau, 701 F.2d 11 1276, 1293 (9th Cir. 1983)). 12 III.

13 DISCUSSION

14 A. Timeliness of Plaintiff’s Motion 15 Pursuant to the Court’s discovery and scheduling order,
the deadline to amend the 16 pleading expired on April 8, 2025. (ECF No. 41.) 17 Here, both

Plaintiff's motion to extend the amendment deadline and motion to amend the 18 complaint were timely filed. With application of the mailbox rule, Plaintiff's motion for an 19 extension of time was constructively filed on March 8, 2025, and Plaintiff's motion to amend the 20 complaint was constructively filed on April 7, 2025. (ECF Nos. 42, 44.) 21 Because both of Plaintiff's motion to file an amended complaint was timely filed, 22 Plaintiff's motion for an extension of time shall be denied as moot. In addition, Defendant's 23 arguments against Plaintiff's request for an extension are more properly considered in connection 24 with a motion for leave to amend. 25 B. Motion to Amend/Proposed Amended Complaint 26 Plaintiff moves to amend the complaint "to clearly frame the material matters which are 27 in dispute and to do so in a way that conforms to federal law and pleading requirements. These 28 clearly framed issues are not new per se, and they have been exhausted. As for the habeas claim, 1 in order to avoid any exhaustion issues, Petitioner has invited the Court to consider his habeas 2 claims through supplemental jurisdiction pursuant to 28 U.S.C. § 1367." (ECF No. 44 at 5.) 3 Plaintiff submits the "Petition for Writ of Habeas Corpus and Third Amended Complaint expand 4 the original complaint in a way that allows the court to reach his due process claims in 5 conjunction with his civil rights claims." (Id. at 6.) 6 Defendant argues that Plaintiff's proposed amendment is in bad faith, creates further 7 delay, is futile, improperly combines habeas and civil rights claims into a single action, and 8 causes prejudice. 9 For the reasons explained below, Plaintiff's motion to amend should be denied. 10 a. Undue Delay/Bad Faith 11 After a responsive pleading is filed, "leave to amend should be granted unless the 12 amendment would cause prejudice to the opposing party, is sought in bad faith, is futile, or 13 creates unnecessary delay." Johnson, 975 F.2d at 607 (internal citations omitted). 14 On January 17, 2024, the Court issued its third and final screening order rejecting all of 15 Plaintiff's claims save for a retaliation claim against Defendant Jackson. (ECF No. 15.) The Court 16 also provided Plaintiff with a choice between "one final opportunity to amend the complaint" and 17 the option to file "a notice of his intent to proceed only on the cognizable claim identified by the 18 Court". (ECF No. 15 at 11-12.) The Court warned that if Plaintiff chose to file a notice of his 19 intent to proceed on the identified claim, the Court would "recommend to the District Judge that 20 this case only proceed on" that claim. (ECF No. 15 at 11.) On February 12, 2024, Plaintiff filed a 21 notice with the Court of his "[i]ntent to proceed with the cognizable claim against defendant K. 22 Jackson" and requesting that the Court "[p]roceed on claim cognizable according to court order; 23 date January 17, 2024." (ECF No. 16.) Therefore, on June 27, 2024, the Court dismissed all 24 claims and Defendants other than the retaliation claim against Defendant Jackson.¹ (ECF No. 22.) 25 /// 26 /// 27 1 The Court also notes that Plaintiff did not file any objections to the Findings and Recommendations to dismiss those 28 claims and Defendants. 1 Under the circumstances of this case, the Court finds that Plaintiff unduly delayed in 2 seeking to amend the complaint. Plaintiff seeks to revive claims he actively chose to abandon on 3 February 12, 2024, which were dismissed by the Court during the screening process. Plaintiff's 4 revisions to the factual allegations raised in his second amended complaint relate to claims 5

brought under the Eighth and Fourteenth Amendments. First, Plaintiff now alleges that “[o]n or 6 about March of 2021, five gangmembers assaulted [him] while [he] was on the recreational yard 7 in response to Defendant Jackson’s actions.” Plaintiff further alleges that “Defendant Ramirez . . . 8 observed the assault and did nothing to intervene . . . even though he was in a position to do so.” 9 Plaintiff allegedly “suffered physical and mental injury as a result of Jackson’s and Ramirez’s 10 direct actions and/or omissions.” (ECF No. 45 at p. 4.) These new factual allegations are a 11 transparent attempt to resurrect the ‘failure to protect’ claim this Court previously rejected in its 12 Third and Final Screening Order and subsequently dismissed on June 27, 2024, nor does Plaintiff 13 explain why he could not allege this previously. (ECF Nos. 15, 22); see *Jackson v. Bank of 14 Hawaii*, 902 F.2d 1385, 1388 (9th Cir. 1990) (finding “undue delay” where parties “knew or 15 should have known the facts and theories raised by the amendment” at the time of filing the 16 original pleading, and had no explanation for failing to raise them earlier). 17 Second, Plaintiff seeks to rewrite his allegations concerning Lt. Bullock, whom the Court 18 dismissed as a defendant on June 27, 2024. (ECF Nos. 45, 22.) Plaintiff now alleges that rather 19 than speaking with him as previously pled, Lt. Bullock “refused to talk with Plaintiff” after 20 Plaintiff had been handcuffed, taken inside the program office, and informed of reports that he 21 had been “checking paperwork” and threatening other inmates. (ECF Nos. 14, 45.) It is clear that 22 Plaintiff is attempting to recast his previously dismissed administrative segregation due process 23 claim. (ECF Nos. 15, 22.) 24 Lastly, Plaintiff now alleges new facts in support of a rejected due process claim 25 concerning his disciplinary hearing and rules violation report. (ECF No. 45.) These new 26 allegations pertain to Patrick Eaton and A. Ramirez, both of whom were dismissed as Defendants 27 on June 27, 2024. (ECF No. 22.) Plaintiff alleges that “Eaton acknowledge[d] an administrative 28 error” connected with Plaintiff’s placement in administrative segregation, and disapproved 1 Plaintiff’s allegations “of false and fabricated evidence”. (ECF No. 45 at 5-6.) Plaintiff further 2 alleges that A. Ramirez authored a document “directly contradict[ing] . . . the statement made in 3 the lock-up order”. (ECF No. 45 at 6.) Finally, Plaintiff alleges that he was rendered ineligible for 4 the Offender Mentor Certification Program. (ECF No. 45 at 6.) These allegations are another 5 attempt to raise a due process claim concerning Plaintiff’s disciplinary hearing and rules violation 6 report. However, the Court rejected such claim and it was dismissed on June 27, 2024. (ECF 7 Nos. 15, 22.)

8 It is clear that Plaintiff’s proposed amended complaint seeks to reinstate dismissed claims. 9 However, Plaintiff has made no showing the dismissal was erroneous. Therefore, Plaintiff’s 10 motion to amend should be denied. 11 b. Prejudice 12 Defendant argues that granting leave to assert new claims and new parties would prejudice 13 them. 14 In evaluating prejudice, a court may consider whether the proposed amendment would 15 alter the litigation substantially, such as by adding claims or parties, require additional discovery, 16 or cause extreme delay. See, e.g., *Morongo Band of Mission Indians v. Rose*, 893 F.2d 1074, 17 1079 (9th Cir. 1990) (finding

prejudice where proposed amendment introduced new legal theory 18 and litigation was advanced); *DCD Programs, Ltd v. Leighton*, 833 F.2d 183, 187 (9th Cir. 1987) 19 (“Amending a complaint to add a party poses an especially acute threat of prejudice to the 20 entering party” such that “[a]voiding prejudice to the party to be added [is the court’s] major 21 objective.”). 22 Here, Defendant argues that she would unduly prejudice them because it would return this 23 case to where it was over a year ago, in January of 2024. This retreat would undo both Plaintiff’s 24 own filings as well as orders and recommendations by the Court. (ECF Nos. 16, 18, 22.) It would 25 also undermine the discovery already completed in this case, including Plaintiff’s deposition. This 26 case has already been pending for almost two years and involves events that purportedly 27 transpired almost four years ago. Plaintiff’s motion seeks further delay in the resolution of this 28 case and is prejudicial to Defendant due to the amount of time that has now lapsed since the 1 events in question. To date, the parties have focused on facts, witnesses, and other evidence 2 relevant to Plaintiff’s claims retaliation claim against Defendant Jackson. Granting leave to add 3 new defendants and claims would effectively re-start the litigation as those new claims and 4 parties. Indeed, it would be necessary for the Court to screen any proposed amended complaint, 5 any new Defendants would need to be served, and discovery would need to be conducted. 6 Further, amendment would cause delay as a pending motion for summary judgment for failure to 7 exhaust administrative remedies which, if granted, would dispose of the claims at issue in this 8 action. (See ECF No. 47.) Thus, permitting amendment would delay the resolution of this case 9 and prejudice Defendants. If the motion is granted, amendment would essentially require the 10 litigation to start over and all current work essentially moot and a waste of time and resources. 11 c. Futile 12 Plaintiff’s amendments to the second amended complaint are futile. The Court has 13 repeatedly warned Plaintiff that his due process claims are barred pursuant to *Heck v. Humphrey*, 14 512 U.S. 477 (1994). (ECF Nos. 7 at p. 8-9, 9 at p. 5-6, 15 at p. 6-7.) Plaintiff’s third amended 15 complaint again runs afoul of *Heck*. 16 As repeatedly stated by the Court, *Heck v. Humphrey*, 512 U.S. 477 (1994), “bars due- 17 process challenges to prison disciplinary decisions”, including those that result “in loss of good- 18 time credits”. (ECF No. 15 at p. 6.) A “prisoner may not bring a civil rights claim that necessarily 19 implies the invalidity of a conviction or sentence until he has succeeded in invalidating the 20 conviction or sentence by other means, such as through the grant of a writ of habeas corpus.” 21 (ECF No. 15 at p. 6.) Thus, “Plaintiff’s due process challenge is barred by *Heck* unless Plaintiff 22 can allege facts demonstrating that his disciplinary decision and sentence have been invalidated.” 23 (ECF No. 15 at p. 7.) 24 Here, Plaintiff once again raises the issue of good time credits, stating that he “could 25 spend a lot of time herein alleging . . . the loss of good time credits”. (ECF No. 45 at p. 9.) 26 Plaintiff also repeats his failure to allege facts demonstrating that his disciplinary decision and 27 sentence have been invalidated. Plaintiff’s current position is therefore no different than it was in 28 any of his past complaints, each of which failed to state a due process claim. 2 (ECF Nos. 7, 9, 1 15.) Because the *Heck* doctrine bars these claims, the Court finds that leave to amend under Rule 2 15 would be

futile. See Fed. R. Civ. P. 15; see also *Foman v. Davis*, 371 U.S. 178, 182 (1962). 3 Moreover, instead of filing a separate habeas corpus petition or acknowledging the 4 Court’s reasoning of the Heck bar, Plaintiff is now attempting to bring his due process challenge 5 by way of habeas corpus petition, by now seeking to combine habeas corpus with civil rights 6 claims in one complaint/petition. A habeas corpus action and a prisoner civil rights suit differ in 7 a variety of respects – including filing fees, the means of collecting them, and restrictions on 8 future filings. See *Badea v. Cox*, 931 F.2d 573, 574 (9th Cir. 1991) (challenges to a detainee’s 9 conditions of confinement must be brought through a civil rights action, rather than through a 10 habeas corpus petition); see also *Hill v. McDonough*, 547 U.S. 573, 579 (2006) (an “inmate’s 11 challenge to the circumstances of his confinement” must be brought through a civil rights action); 12 *Preiser v. Rodriguez*, 411 U.S. 475, 499 (1973) (a civil rights action is the “proper remedy” for a 13 prisoner “who is making a constitutional challenge to the conditions of his prison life, but not to 14 the fact or length of his custody”); *Nelson v. Campbell*, 541 U.S. 637, 643 (2004) 15 (“[C]onstitutional claims that merely challenge the conditions of a prisoner’s confinement, 16 whether the inmate seeks monetary or injunctive relief, fall outside of that core [of habeas relief]” 17 and, instead, should be brought as a civil rights claim “in the first instance.”) Thus, Plaintiff’s 18 motion to amend should be denied. 19 IV.

20 RECOMMENDATIONS

21 Based on the foregoing, it is HEREBY RECOMMENDED that: 22 1. Plaintiff’s motion for an extension of time to file a motion to amend be denied as 23 unnecessary; and 24 2. Plaintiff’s motion to amend the complaint be denied. 25 These Findings and Recommendations will be submitted to the United States District 26 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen 27 (14) days after being served with these Findings and Recommendations, the parties may file 28 written objections with the Court. The document should be captioned “Objections to Magistrate 1 | Judge’s Findings and Recommendations.” The parties are advised that failure to file objections 2 | within the specified time may result in the waiver of rights on appeal. *Wilkerson v. Wheeler*, 772 3 | F.3d 834, 838-39 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)). 4

5 IT IS SO ORDERED. FA. ee

6 | Dated: _ May 15, 2025

STANLEY A. BOONE

7 United States Magistrate Judge 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28