

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

Valencia v. Martinez

No. 1:24-cv-01441-KES-SAB (PC), United States District Court for the Eastern District of California (June 25,
2025)

SUMMARY

The United States District Court for the Eastern District of California partially adopted findings and recommendations and dismissed Eric Valencia's 42 U.S.C. § 1983 action. The court held that alleged threats, conspiracy, and failure-to-protect allegations did not state cognizable constitutional claims. The action was dismissed without further leave to amend, and the clerk was directed to close the case.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 ERIC VALENCIA, No. 1:24-cv-01441-KES-SAB (PC) 12 Plaintiff,
ORDER ADOPTING IN PART FINDINGS AND RECOMMENDATIONS AND 13 v.
DISMISSING ACTION 14 MARTINEZ, et al., Doc. 10 15 Defendants. 16 17 18 Plaintiff is a
pretrial detainee proceeding pro se and in forma pauperis in this civil rights 19 complaint pursuant
to 42 U.S.C. § 1983.

The matter was referred to a United States magistrate 20 judge pursuant to 28 U.S.C. § 636(b)(1)
(B) and Local Rule 302. 21 Plaintiff filed his complaint on November 25, 2024. Doc. 1. On
February 19, 2025, the 22 assigned magistrate judge screened the complaint, found that plaintiff
failed to state a cognizable 23 claim for relief, and granted plaintiff thirty days to file an amended
complaint.

Doc. 7. The 24 magistrate judge informed plaintiff that failure to file an amended complaint in
compliance with 25 the order would result in a recommendation that his complaint be dismissed
for failure to state a 26 claim for the reasons identified in the screening order. Id. 27 Plaintiff
failed to file an amended complaint or otherwise respond to the screening order, 28 and on March
31, 2025, the Court issued an order for plaintiff to show cause why the action 1 should not be
dismissed.

Doc. 8. After plaintiff failed to respond to the order to show cause, the 2 magistrate judge issued
findings and recommendations on April 29, 2025 to dismiss the action for 3 failure to state a
claim, failure to obey a court order, and failure to prosecute. Doc. 10.

The 4 findings and recommendations were served on plaintiff and contained notice that any objections 5 thereto were to be filed within fourteen (14) days after service. Id. at 9. Plaintiff did not file 6 objections, and the time to do so has passed. 7 In accordance with the provisions of 28 U.S.C. § 636(b)(1), this Court has conducted a de 8 novo review of this case.

Having carefully reviewed the file, the Court finds that the conclusions 9 of the findings and recommendations that plaintiff's allegations that defendant Martinez's threat 10 to fight plaintiff, and that defendants conspired against him, do not give rise to cognizable claims, 11 are supported by the record and proper analysis.1 12 Additionally, plaintiff's allegation that defendant Martinez said to plaintiff, "You know 13 what is funny?

I can throw all these papers away and you can't grieve me!" in reference to 14 plaintiff's dorm member's legal papers fails to state a cognizable claim, as a "naked threat" 15 typically does not rise to the level of a constitutional violation. See, e.g., *Gaut v. Sunn*, 810 F.2d 16 923, 925 (9th Cir. 1987).

Moreover, the alleged threat was to throw away the legal property of 17 another pretrial detainee, not that of plaintiff. 18 Nor does plaintiff state a claim for failure to protect against Does 1–5 or Navarro. As 19 noted, the findings and recommendations correctly conclude that Martinez's conduct does not rise 20 to the level of a constitutional violation.

Doc. 10 at 4–5. Given this, plaintiff's claim that Does 21 1–5 and Navarro failed to protect plaintiff from such conduct also must fail. 22 /// 23 /// 24 1 As plaintiff was permitted to stand on his original complaint and was not required to file an 25 amended complaint, the Court declines to adopt the recommendation to dismiss the case for failure to prosecute and failure to obey a court order based on plaintiff's failure to file an 26 amended complaint.

See *Williams v. King*, 875 F.3d 500 (9th Cir. 2017). This action is 27 dismissed as the complaint fails to state a cognizable claim for relief. As plaintiff was given the opportunity to file an amended complaint and elected not to do so, the complaint is dismissed 28 without further leave to amend. 1 Accordingly, 2 1.

The findings and recommendations issued on April 29, 2025, Doc. 10, are adopted 3 in part as set forth above; 4 2. This action is dismissed for failure to state a cognizable claim for relief; and 5 3. The Clerk of the Court is directed to close this case. 6 7 g | IT ISSO ORDERED. _ 9 Dated: _ June 25, 2025 4h | | 10 UNITED STATES DISTRICT JUDGE 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28