

**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)

OPINION

(PC) Valencia v. Martinez

PER CURIAM.

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