

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Rodriguez v. Newsom

Rodriguez · No. 2:24-cv-02552-CKD (PS) · Decided March 12, 2025

SUMMARY

The Eastern District of California grants Armando Rodriguez’s application to proceed in forma pauperis. The court dismisses the complaint for failure to allege a federal claim or establish federal-question or diversity jurisdiction, but grants leave to amend within thirty days.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Carolyn K. Delaney
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 12, 2025
DOCKET	2:24-cv-02552-CKD (PS)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Pro se plaintiff filed a civil action invoking 42 U.S.C. § 1983 and moved to proceed in forma pauperis. The court granted in forma pauperis status and dismissed the complaint for lack of subject matter jurisdiction, granting leave to amend.
STANDARD OF REVIEW	The court was required to dismiss the action whenever it determined that subject matter jurisdiction was lacking under Federal Rule of Civil Procedure 12(h)(3). Pro se pleadings were liberally construed, and dismissal without leave to amend was appropriate only if amendment would be futile.
PRECEDENTIAL VALUE	Nonprecedential district court order; precedential status is unknown in the source metadata.
PARTIES	Armando Rodriguez v. Gavin Newsom, California Department of Corrections and Rehabilitation

TOPICS

- subject matter jurisdiction
- section 1983
- pleadings
- civil procedure

PRACTICE AREAS

Civil procedure

Civil rights

Federal jurisdiction

Prisoner civil rights

QUESTIONS PRESENTED

1. Whether the plaintiff's application to proceed in forma pauperis satisfied the requirements of 28 U.S.C. § 1915.
2. Whether the complaint established federal-question or diversity subject matter jurisdiction.
3. Whether the complaint should be dismissed with leave to amend rather than without leave to amend.

HOLDINGS

1. Plaintiff's application to proceed in forma pauperis satisfied the requirements of 28 U.S.C. § 1915 and was granted.
2. The complaint failed to establish federal-question or diversity jurisdiction because it did not allege a specific federal cause of action or facts supporting a claim within the court's original jurisdiction, and diversity jurisdiction was unavailable where plaintiff and defendants were citizens of California.
3. The complaint was dismissed with leave to amend because it was not absolutely clear that the jurisdictional defect could not be cured by amendment.

KEY QUOTATIONS

"Plaintiff has neither alleged a specific cause of action nor provided any facts from which the court can infer a cause of action over which the court has original jurisdiction." (Order at 2)

"It appears that the court does not have federal question jurisdiction over this action, as plaintiff does not assert any federal claims against any defendant, and there is no diversity of citizenship jurisdiction because both plaintiff and defendants are citizens of California." (Order at 2)

FACTUAL BACKGROUND

Armando Rodriguez filed a pro se complaint naming Gavin Newsom and the California Department of Corrections and Rehabilitation as defendants. He asserted that the complaint was authorized by 42 U.S.C. § 1983, requested that California Senate Bill 132 and Penal Code section 2605 be amended or reviewed, and alleged that the action presented a federal question. The complaint did not identify a specific cause of action or facts supporting an original federal claim, and both plaintiff and defendants were alleged to be California citizens for purposes of diversity jurisdiction.

PROCEDURAL HISTORY

Plaintiff filed an original complaint and an application to proceed in forma pauperis. The magistrate judge granted the application, concluded that the complaint did not state a specific federal cause of action or facts establishing federal-question or diversity jurisdiction, dismissed the complaint with leave to amend, and allowed thirty days to file an amended complaint.

DISPOSITION

dismissed

CASES CITED

- *Hebbe v. Pliler*, 627 F.3d 338, 342 & n.7 (9th Cir. 2010)
- *Lopez v. Smith*, 203 F.3d 1122, 1130-31 (9th Cir. 2000) (en banc)
- *Cahill v. Liberty Mutual Insurance Co.*, 80 F.3d 336, 339 (9th Cir. 1996)
- *Harrison v. Kernan*, 971 F.3d 1069, 1073 (9th Cir. 2020)
- *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83, 89 (1998)
- *Grancare, LLC v. Thrower ex rel. Mills*, 889 F.3d 543, 549-50 (9th Cir. 2018)
- *Neitzke v. Williams*, 490 U.S. 319, 325, 327 (1989)
- *McDaniel v. Hinch*, No. 2:17-cv-02448-KJM-CKD (E.D. Cal. July 11, 2018)
- *Lucas v. Department of Corrections*, 66 F.3d 245, 248 (9th Cir. 1995)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 ARMANDO RODRIGUEZ, No. 2:24-cv-02552- CKD (PS) 12 Plaintiff, 13
v. ORDER 14 GAVIN NEWSOM, et al., 15 Defendants. 16 17 Plaintiff, who is proceeding
without counsel in this action, requests leave to proceed in 18 forma pauperis (“IFP”).¹ (ECF No.
2.) See 28 U.S.C. § 1915 (authorizing the commencement of 19 an action “without prepayment of
fees or security” by a person who is unable to pay such fees).

20 Plaintiff’s application makes the showing required by 28 U.S.C. § 1915. The motion to proceed
in 21 forma pauperis will be granted. 22 I. Legal Standards 23 Pro se pleadings are to be liberally
construed. *Hebbe v. Pliler*, 627 F.3d 338, 342 & fn. 7 24 (9th Cir. 2010) (liberal construction
appropriate even post-*Iqbal*). Prior to dismissal, the court is 25 to tell the plaintiff of deficiencies
in the complaint and provide an opportunity to cure—if it 26 1 Actions in which a party proceeds
without counsel are referred to a magistrate judge pursuant to 27 E.D.

Cal. L.R. 302(c)(21). See 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72. Resolution of dispositive
matters by a magistrate judge are to be filed as findings and recommendations. See 28 Local Rule
304. 1 appears at all possible the defects can be corrected. See *Lopez v. Smith*, 203 F.3d 1122,
1130-31 2 (9th Cir. 2000) (en banc).

However, if amendment would be futile, no leave to amend need be 3 given. *Cahill v. Liberty Mut.*
Ins. Co., 80 F.3d 336, 339 (9th Cir. 1996). The court must dismiss a 4 case if, at any time, it
determines that it lacks subject matter jurisdiction. Fed. R. Civ. P. 12(h)(3). 5 A federal district
court generally has jurisdiction over a civil action when: (1) a federal question is 6 presented in an

action “arising under the Constitution, laws, or treaties of the United States” or (2) 7 there is complete diversity of citizenship and the amount in controversy exceeds \$75,000.

See 28 U.S.C. §§ 1331, 1332(a). Further, a plaintiff must have standing to assert a claim, which requires 9 an injury in fact caused by defendant(s) that may be redressed in court. *Harrison v. Kernan*, 971 F.3d 1069, 1073 (9th Cir. 2020). 11 Federal courts lack subject matter jurisdiction to consider claims that are “so 12 insubstantial, implausible, foreclosed by prior decisions of this court, or otherwise completely 13 devoid of merit as not to involve a federal controversy.” *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83, 89 (1998); see also *Grancare, LLC v. Thrower by & through Mills*, 15 F.3d 543, 549-50 (9th Cir.

2018) (noting that the “wholly insubstantial and frivolous” 16 standard for dismissing claims operates under Rule 12(b)(1) for lack of federal question 17 jurisdiction). A claim is legally frivolous when it lacks an arguable basis either in law or in fact. 18 *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). A court may dismiss a claim as frivolous where it 19 is based on an indisputably meritless legal theory or where the factual contentions are clearly 20 baseless.

Id. at 327; Rule 12(h)(3). 21 II. Analysis 22 Plaintiff avers that his complaint is authorized by 42 U.S.C. § 1983 and requests that “SB 23 132 get amended and Penal Code Section 2605 get looked at and amended as well.” (ECF No. 1 24 at 7-8.) Plaintiff names Gavin Newsom and the Department of Corrections and Rehabilitation as 25 defendants. Plaintiff alleges that the complaint invokes a “federal question.” (*Id.* at 4.)

26 Plaintiff has neither alleged a specific cause of action nor provided any facts from which 27 the court can infer a cause of action over which the court has original jurisdiction. It appears that 28 the court does not have federal question jurisdiction over this action, as plaintiff does not assert 1 | any federal claims against any defendant, and there is no diversity of citizenship jurisdiction 2 || because both plaintiff and defendants are citizens of California.

See *McDaniel v. Hinch*, No. 3 || 2:17-cv 02448-KJM-CKD (E.D. Cal. July 11, 2018) (“[W]ith no stated claim triggering either 4 || diversity or federal question jurisdiction, the complaint is properly subject to dismissal for lack of 5 || jurisdiction”). 6 II. Conclusion and Order 7 The complaint must be dismissed, but plaintiff is granted leave to file an amended 8 || complaint.

See *Lucas v. Dep’t of Corr.*, 66 F.3d 245, 248 (9th Cir. 1995) (“Unless it is absolutely 9 || clear that no amendment can cure the defect... a pro se litigant is entitled to notice of the 10 || complaint’s deficiencies and an opportunity to amend prior to dismissal of the action.”). An 11 || amended complaint should be titled “First Amended Complaint.” Local Rule 220 requires that an 12 || amended complaint be complete by itself without reference to any prior pleading.

13 For the reasons set forth above, IT IS ORDERED as follows: 14 1. Plaintiffs request to proceed in forma pauperis (ECF No. 2) is granted. 15 2. Plaintiff’s complaint (ECF No. 1) is dismissed

with leave to amend. 16 3. Plaintiff is granted thirty days from the date of service of this order to file an amended 17 complaint that complies with the requirements of the Federal Rules of Civil Procedure 18 and the Local Rules of Practice; failure to file an amended complaint in accordance 19 with this order will result in a recommendation that this action be dismissed.

20 | Dated: March 12, 2025 ☐☐ I / dle ae 21 CAROLYNK. DELANEY 22 UNITED STATES
MAGISTRATE JUDGE 23 24 25 96 | CKPRosi2552.sereen 27 28