

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

McMahon v. Whitney

No. 2:23-cv-01972-KJM-JDP (PS) (E.D. Cal. Aug. 4, 2025) · No. 2:23-cv-01972-KJM-JDP (PS) · Decided
August 5, 2025

OPINION

(PS) McMahon v. Whitney

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 RYAN MCMAHON, Case No. 2:23-cv-01972-KJM-JDP (PS) 12 Plaintiff, 13 v. ORDER 14
JOHN WHITNEY, et al., 15 Defendants. 16 17 On June 23, 2025, the magistrate judge filed
findings and recommendations, which were 18 served on the parties and which contained notice
that any objections to the findings and 19 recommendations were to be filed within fourteen days.
See ECF No. 95. No objections were 20 filed. 21 The court presumes that any findings of fact are
correct. See *Orand v. United States*, 22 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge’s
conclusions of law are reviewed de 23 novo. See *Robbins v. Carey*, 481 F.3d 1143, 1147 (9th Cir.
2007) (“[D]eterminations of law by 24 the magistrate judge are reviewed de novo by both the
district court and [the appellate] court 25 . . .”). 26 Having reviewed the file, the court finds the
findings and recommendations to be 27 supported by the record and by proper analysis with
respect to defendants’ motion to dismiss 28 //// 1 2 plaintiff’s federal claims, and with the
magistrate judge’s recommendation to decline 3 supplemental jurisdiction on plaintiff’s state law
claims, see ECF Nos. 86–87. 4 However, the court finds plaintiff should be given leave to amend
his federal claims. The 5 magistrate judge recommended dismissing McMahon’s First Amendment
claims without leave to 6 amend because he found McMahon’s claims to be untimely. See F&Rs
at 3. Applying California 7 statute of limitations rules from its personal injury statute, the
magistrate judge held the statute of 8 limitations for McMahon’s § 1983 claims was two years and
yet McMahon filed his claim almost 9 four years after he knew or had reason to know of the basis
of his claim. See *id.* The magistrate 10 judge also recommended denying equitable tolling of the
statute of limitations based on related 11 administrative proceedings McMahon brought against
defendants before he filed suit by claiming 12 that “such proceedings do not toll the statute of
limitations if the relief sought therein is different 13 from what is being sought in the immediate
suit.” *Id.* at 4 (Citing *Galindo v. Stoodly Co.*, 793 14 F.2d 1502, 1510 n.5)). The court, however,
has been unable to locate a case where the equitable 15 tolling rule recommended by the
magistrate judge has been applied to a § 1983 claim. 16 District courts within the Ninth Circuit do

not uniformly apply the same equitable tolling 17 doctrine to federal claims. See *Young v. Santa Clara County*, No. 24-6343, 2025 WL 385513, at 18 *3 (“For actions under 42 U.S.C. § 1983, courts apply the forum state’s statute of limitations for 19 personal injury actions, along with the forum state’s law regarding tolling, including equitable 20 tolling, except to the extent any of these laws is inconsistent with federal law.” (quoting *Jones v. 21 Blanas*, 393 F.3d 918, 927 (9th Cir. 2004))); *Cota v. Santa Ana Police Dep’t*, No. 21-1774, 2021 22 WL 5494440, at *6 (C.D. Cal. Nov. 23, 2021) (applying California equitable tolling rules to a 23 § 1983 claim); but see *Madani v. County of Santa Clara*, No. 16-07026, 2017 WL 1092398, at *7 24 (N.D. Cal. Mar. 23, 2017) (claiming no federal court has “extended [California equitable tolling 25 rules]” to federal statutes) (quoting *Villalvaso v. Odwalla, Inc.*, 10-2369, 2011 WL 1585604, at 26 *3 (E.D. Cal. Apr. 25, 2011)); *Bernhardt v. State of Cal. Dep’t of Corrs. and Rehab.*, No. 13- 27 1380, 2015 WL 2003096, at *9–10 (E.D. Cal. Apr. 29, 2015) (distinguishing federal equitable 28 tolling rules from California equitable tolling doctrine and applying a four-part balancing test for 1 tolling a Title VII claim derived from *Rodriguez v. Airborne Express*, 265 F.3d 890, 902 (9th Cir. 2 2001)). 3 Plaintiff’s § 1983 claims would currently not warrant the invocation of either a federal 4 equitable tolling doctrine, which requires a plaintiff show the court needs to toll the statute of 5 limitations because they have been pursuing their rights diligently and some extraordinary 6 circumstance stood in their way, see *Smith v. Davis*, 953 F.3d 582, 588 (9th Cir. 2020), or the 7 state of California’s equitable tolling doctrine, which requires the plaintiff to show timely notice, 8 lack of prejudice to the defendant, and reasonable and good faith conduct on the part of the 9 plaintiff, see *McDonald v. Antelope Cmty. Coll. Dist.*, 45 Cal.4th 88, 99 (2008). However, the 10 court finds it would not be futile for plaintiff to amend his complaint within the confines of Rule 11 11 as the difference in relief sought between plaintiff’s administrative proceedings and his § 1983 12 claim is not necessarily a bar to a federal court equitably tolling the statute of limitations and 13 allowing an amended claim to go forward. 14 Accordingly, IT IS HEREBY ORDERED that: 15 1. The Findings and Recommendations filed June 23, 2025, are adopted in part. 16 2. Defendants’ motions to dismiss, ECF Nos. 86 & 87, are granted. 17 3. Plaintiff’s federal claims are dismissed with leave to amend. Any amended 18 complaint must be filed within twenty-one (21) days. 19 4. Plaintiff may include his state claims in any amended complaint. 20 This order resolves ECF No. 95. 21 IT IS SO ORDERED. 22 DATED: August 4, 2025. 23 24 25 26 27 28