

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Balu v. Druckman

No. 24-cv-02088-SI (N.D. Cal. Apr. 29, 2025) · No. 24-cv-02088-SI · Decided April 29, 2025

SUMMARY

The United States District Court for the Northern District of California denied Arvind Balu's Rule 59(e) motion to alter or amend the judgment. The court held that its prior dismissal based on res judicata and the statute of limitations was not clearly erroneous or manifestly unjust, including its determination that Balu could have pursued a § 1983 malicious prosecution claim before Thompson v. Clark. The court also rejected Balu's remaining arguments concerning privity, the merits of the prior dismissal, newly discovered harm, equitable tolling, and liberal construction of pro se pleadings.

CASE DETAILS

|                       |                                                                                                                                                                                                               |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Northern District of California                                                                                                                                          |
| WRITING FOR THE COURT | Susan Illston                                                                                                                                                                                                 |
| JURISDICTION          | United States District Court for the Northern District of California                                                                                                                                          |
| DECIDED               | April 29, 2025                                                                                                                                                                                                |
| DOCKET                | 24-cv-02088-SI                                                                                                                                                                                                |
| DISPOSITION           | other                                                                                                                                                                                                         |
| PROCEDURAL POSTURE    | Plaintiff moved under Federal Rule of Civil Procedure 59(e) to alter or amend the judgment entered after the court granted defendants' motions to dismiss on res judicata and statute-of-limitations grounds. |
| STANDARD OF REVIEW    | Rule 59(e) relief is appropriate only upon newly discovered evidence, clear error or a manifestly unjust initial decision, or an intervening change in controlling law.                                       |
| PRECEDENTIAL VALUE    | Unpublished, nonprecedential federal district court order                                                                                                                                                     |
| PARTIES               | Arvind Balu v. Rebecca Druckman, et al.                                                                                                                                                                       |

TOPICS

- motion for reconsideration
- res judicata
- statute of limitations
- section 1983
- civil procedure

PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether the court's prior determination that plaintiff could have brought a timely § 1983 malicious-prosecution claim before *Thompson v. Clark* constituted clear error or manifest injustice.
2. Whether the court improperly applied res judicata, including privity, to defendants.
3. Whether the prior dismissal was procedural rather than on the merits for res judicata purposes.
4. Whether plaintiff's asserted newly discovered harm, equitable-tolling arguments, or pro se status warranted altering or amending the judgment under Rule 59(e).

## HOLDINGS

1. The court did not commit clear error or render a manifestly unjust decision by holding that plaintiff could have pursued his § 1983 malicious-prosecution claim after the 2006 dismissal of the criminal charges and before *Thompson v. Clark*.
2. The court did not commit clear error or manifest injustice by applying res judicata to the challenged defendants, including defendants connected through privity.
3. The prior dismissal for failure to state a claim was a dismissal on the merits, and *Ruiz v. Snohomish County Public Utility District No. 1* did not require a different result because the earlier action was not dismissed for lack of jurisdiction.
4. Plaintiff's arguments concerning newly discovered harm, equitable tolling, and liberal construction of his pro se pleadings did not establish newly discovered evidence, clear error, manifest injustice, or an intervening change in controlling law.

## KEY QUOTATIONS

*“Amendment or alteration is appropriate under Rule 59(e) if (1) the district court is presented with newly discovered evidence, (2) the district court committed clear error or made an initial decision that was manifestly unjust, or (3) there is an intervening change in controlling law.”* (at 1-2)

*“The Thompson Court concluded that an “affirmative indication of innocence” was not required; if the criminal prosecution ended without a conviction, that was sufficient.”* (at 4)

*“A motion under Rule 59(e) is an opportunity to point out a court’s clear error, not a second chance to litigate the same issues.”* (at 7)

*“A liberal construction of a pro se complaint, however, does not mean that the court will supply essential elements of a claim that are absent from the complaint.”* (at 9)

## FACTUAL BACKGROUND

Plaintiff's remaining criminal convictions were reversed after a successful writ of habeas corpus on May 16, 2006, and the district attorney later moved under California Penal Code section 1385 to dismiss the charges; the superior court granted that motion on June 19, 2006. Plaintiff nevertheless did not bring his malicious-

prosecution claim until a later federal action, and the court concluded that the claim could have been asserted after the 2006 dismissal and was barred by the statute of limitations and res judicata. In the present case, plaintiff challenged the prior dismissal and judgment through a Rule 59(e) motion.

**PROCEDURAL HISTORY**

The court previously dismissed plaintiff's claims and entered judgment for defendants. Plaintiff timely moved to alter or amend the judgment, arguing that the court had committed clear error concerning the availability and timeliness of his § 1983 malicious-prosecution claim, res judicata, privity, the effect of a prior dismissal, newly discovered harm, and liberal construction of his pro se pleadings. The court denied the Rule 59(e) motion.

**DISPOSITION**

other

**CASES CITED**

- Zimmerman v. City of Oakland, 255 F.3d 734, 740 (9th Cir. 2001)
- Thompson v. Clark, 596 U.S. 36 (2022)
- Heck v. Humphrey, 512 U.S. 477, 484 n.4, 486-87 (1994)
- Awabdy v. City of Adelanto, 368 F.3d 1062, 1066, 1068 (9th Cir. 2004)
- Nhia Kao Vang v. Decker, 607 F. App'x 728, 729 (9th Cir. 2015)
- Roberts v. City of Fairbanks, 947 F.3d 1191, 1201-03 (9th Cir. 2020)
- Ruiz v. Snohomish County Public Utility District No. 1, 824 F.3d 1161, 1162, 1164-65 (9th Cir. 2016)
- Boquist v. Courtney, 32 F.4th 764, 774 (9th Cir. 2022)
- Hebbe v. Pliler, 627 F.3d 338, 342 (9th Cir. 2010)
- Balu v. Lake County et al., No. 3:08-cv-03014-SI (N.D. Cal.)

**OPINION**

Balu v. Druckman

PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 ARVIND BALU, Case No. 24-cv-02088-SI 8 Plaintiff,

ORDER DENYING PLAINTIFF'S

9 v. RULE 59(E) MOTION TO AMEND

THE JUDGMENT

10 REBECCA DRUCKMAN, et al., Re: Dkt. No. 40 11 Defendants. 12 13 The history of this case is known to the parties and was recited by the Court in its prior order 14 from January 7, 2025. See Dkt. No. 38 (“Prior Order”). In the Prior Order, the Court granted 15 defendants’ motions to

dismiss on the grounds of res judicata and the statute of limitations. *Id.* The 16 Court then issued a judgment in favor of defendants. Dkt. No. 39. Plaintiff Arvind Balu timely 17 moved the Court to alter or amend its judgment pursuant to Rule 59(e) of the Federal Rules of Civil 18 Procedure. Dkt. No. 40 (“Mot.”). The Court withheld ruling on the motion until plaintiff’s separate 19 recusal motion was adjudicated.<sup>1</sup> For the reasons stated below, the Court DENIES the motion to 20 amend. 21

## 22 LEGAL STANDARD

23 Rule 59(e) of the Federal Rules of Civil Procedure allows a party to file a motion to alter or 24 amend the judgment of a court within twenty-eight days of that judgment. Fed. R. Civ. P. 59(e). 25 “Amendment or alteration is appropriate under Rule 59(e) if (1) the district court is presented with 26 newly discovered evidence, (2) the district court committed clear error or made an initial decision 27 1 that was manifestly unjust, or (3) there is an intervening change in controlling law.” *Zimmerman v. 2 City of Oakland*, 255 F.3d 734, 740 (9th Cir. 2001) (citation omitted). 3

## 4 DISCUSSION

5 In his motion, plaintiff contends the Court committed numerous errors in its Prior Order. 6 See generally *Mot.* Plaintiff does not argue that new evidence has surfaced or that the law changed 7 in the month after the Prior Order was issued. 8 9 I. Procedural Bar to a Malicious Prosecution Claim 10 First and foremost, plaintiff asserts that the Court misinterpreted the state of Ninth Circuit 11 law prior to the Supreme Court’s ruling in *Thompson v. Clark*, 596 U.S. 36 (2022). See *Mot.* at 4- 12 9. Plaintiff continues to argue that he was barred from presenting a claim of malicious prosecution 13 prior to the 2022 *Thompson* ruling and therefore his claim should not be precluded by res judicata 14 or the statute of limitations. 15 In the Prior Order, the Court explained: 16 Plaintiff creatively argues that the Supreme Court decision in *Thompson v. Clark* started a new clock for his malicious prosecution 17 claim, but he misunderstands the law. In *Heck v. Humphrey*, the Supreme Court held that a plaintiff seeking damages for 18 unconstitutional conviction or imprisonment “must prove that the conviction or sentence has been reversed on direct appeal, expunged 19 by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court’s 20 issuance of a writ of habeas corpus . . . .” 512 U.S. 477, 486-87 (1994). Some circuits interpreted *Heck* to mean that a § 1983 malicious 21 prosecution claim required the plaintiff obtain a finding of innocence. See *Thompson*, 596 U.S. at 41. While the Supreme 22 Court in *Thompson* overruled precedent in other circuits that required an “affirmative indication of innocence” before 23 pursuing a malicious prosecution claim under § 1983, 596 U.S. at 41, 48, that had never been the law in the Ninth Circuit. Prior to 24 *Thompson*, the Ninth Circuit explained that the requirement for favorable termination to pursue a § 1983 suit for wrongful conviction 25 differed from the requirement at common law to show innocence to succeed in the tort of malicious prosecution. *Roberts v. City of 26 Fairbanks*, 947 F.3d 1191, 1201-03 (9th Cir. 2020). As such, plaintiff was not barred from asserting a timely malicious prosecution claim 27 after his successful writ of habeas corpus—and

plaintiff did not receive a new starting clock in 2022. 1 Dkt. No. 38 (emphasis added). 2 The starting point of the analysis is agreed upon: Heck requires a “favorable termination” to 3 proceed with a § 1983 malicious prosecution claim. 512 U.S. 484 n.4. In the wake of Heck, lower 4 courts disagreed about what constituted a “favorable termination.” In Thompson, the Supreme Court 5 posed the question this way: 6 Does it suffice for a plaintiff to show that his criminal prosecution ended without a conviction? Or must the plaintiff also demonstrate 7 that the prosecution ended with some affirmative indication of his innocence, such as an acquittal or a dismissal accompanied by a 8 statement from the judge that the evidence was insufficient? 596 U.S. at 39. The Thompson Court concluded that an “affirmative indication of innocence” was 9 not required; if the criminal prosecution ended without a conviction, that was sufficient. Id. at 49.2 10 Plaintiff argues this Court erred in its Prior Order by not understanding that a 2004 Ninth 11 Circuit decision barred plaintiff from filing his malicious prosecution claim in 2008, but plaintiff 12 neglects the relevant holding in that case. See *Awabdy v. City of Adelanto*, 368 F.3d 1062 (9th Cir. 13 2004). There, the district attorney filed a motion to dismiss charges against a former criminal 14 defendant named Awabdy pursuant to California Penal Code section 1385. Id. at 1066. Awabdy 15 then filed a malicious prosecution action under 42 U.S.C. § 1983 about eighteen months later. Id. 16 The court allowed the claim because 17 [w]hen such a dismissal is procured as the result of a motion by the 18 prosecutor and there are allegations that the prior proceedings were instituted as the result of fraudulent conduct, a malicious prosecution 19 plaintiff is not precluded from maintaining his action unless the defendants can establish that the charges were withdrawn on the basis 20 of a compromise among the parties or for a cause that was not inconsistent with his guilt. 21 Id. at 1068. In essence, this holding puts the “burden” on the subsequent civil defendants to show 22 a prosecutor’s dismissal of charges does not indicate innocence per Heck, rather than requiring the 23 plaintiff to show an affirmative indication of innocence. See *Nhia Kao Vang v. Decker*, 607 F. 24 App’x 728, 729 (9th Cir. 2015). 25 Plaintiff’s case mirrors Awabdy in crucial ways. Plaintiff’s remaining criminal convictions 26 27 1 were reversed after his writ of habeas corpus on May 16, 2006. *Balu v. Lake County et al.*, No. 2 3:08-cv-03014-SI (N.D. Cal.), Dkt. No. 39, Ex. B. Then, the district attorney moved to dismiss the 3 charges against plaintiff under Penal Code section 1385—the same procedural mechanism as in 4 Awabdy—and the superior court granted the motion on June 19, 2006. Id., Ex. C. Therefore, like 5 Awabdy, plaintiff was able to present a claim for malicious prosecution from that point until the 6 statute of limitations had run. 7 Later, as the Court noted in its Prior Order, the Ninth Circuit in 2020 moved further away 8 from requiring a finding of innocence before proceeding with a malicious prosecution claim under 9 section 1983. See *Roberts v. City of Fairbanks*, 947 F.3d 1191, 1201-02 (9th Cir. 2020). So even 10 if Awabdy had somehow barred plaintiff from filing this claim in his original 2008 lawsuit, the Heck 11 bar had lifted by 2020, not 2022. 12 The Court recognizes that the Prior Order did not include a full discussion of Awabdy’s 13 application to this case. Nonetheless, the Court’s prior holding was correct: plaintiff could have 14 proceeded on his malicious prosecution claim prior to

the decision in Thompson. The Court has not 15 “committed clear error or made an initial decision that was manifestly unjust.” Zimmerman, 255 16 F.3d at 740. Therefore, plaintiff’s motion to amend the judgment on this ground is DENIED.3 17 18 II. Other Alleged Errors 19 Plaintiff contends the Court made numerous other clear errors, but these contentions 20 similarly lack merit. 21 First, plaintiff challenges the Court’s consideration of the doctrine of privity to apply res 22 judicata to the defendants. In the Prior Order, the Court held that res judicata barred the claims 23 against defendants Druckman, Hedstrom, Layfield, and, via privity, defendants Roxson and Carl 24 Warren & Company. Prior Order at 4-6. Plaintiff argues that the Court improperly applied privity 25 sua sponte, Mot. at 10, 12, 19-20, but defendants raised the issue in both of their motions to dismiss 26 27 3 Plaintiff also argues that the Court failed to apply equitable tolling, see Mot. at 14-15, 20- 1 in such a manner as to give plaintiff opportunity to respond to that argument. See Dkt. Nos. 23, 31. 2 In fact, plaintiff responded to the privity argument in his opposition to defendant Carl Warren’s 3 motion. See Dkt. No. 32. 4 Plaintiff further presents arguments that res judicata should not apply because the defendants 5 who had been named in the prior lawsuit were not personally served or had litigated in an official 6 rather than personal capacity. Mot. at 10-11. The Court first notes that plaintiff could have raised 7 this argument in his opposition to the original motions to dismiss but did not do so. A motion under

8 Rule 59(e) is an opportunity to point out a court’s clear error, not a second chance to litigate the 9 same issues. But even considered on the merits, plaintiff’s arguments do not persuade the Court 10 that it erred. Druckman and Hedstrom appeared in the former litigation and, through counsel, 11 litigated. See, e.g., Balu v. Lake County et al., No. 3:08-cv-03014-SI (N.D. Cal.), Dkt. No. 77. 12 Plaintiff named Layfield in the prior suit and, even if Layfield was not served, his employing 13 agency—the Lake County Sheriff’s Department—participated in the litigation. See id. The 14 application of res judicata does not constitute manifest injustice under these circumstances.4 15 Second, plaintiff challenges the Prior Order by arguing that a procedural dismissal in an 16 earlier case does not lead to res judicata. Mot. at 17-18. The Prior Order was clear, however, that 17 the 2009 dismissal for failure to state a claim was on the merits, not procedural. Prior Order at 4. 18 Plaintiff’s reliance on Ruiz v. Snohomish County Public Utility District No. 1, 824 F.3d 1161, 1162 19 (9th Cir. 2016) in his Rule 59(e) motion is unavailing. In that case, the earlier action was dismissed 20 by the district court for two reasons, a lack of personal jurisdiction and a running of the statute of 21 limitations. Ruiz, 824 F.3d at 1164. The former is not a dismissal on the merits, but the latter is. 22 Id. The Ninth Circuit held that when a lack of jurisdiction is one holding, the dismissal must be 23 considered procedural. Id. at 1165. In this case, however, the earlier action was not dismissed for 24 a lack of jurisdiction, so the holding in Ruiz does not apply. Balu v. Lake County et al., No. 3:08- 25 cv-03014-SI (N.D. Cal.), Dkt. No. 120. 26 Third, plaintiff argues the Court “entirely ignored” his argument about newly discovered 27 1 harm from a medication he took while incarcerated. Mot. at 24-25. The Court in fact addressed this 2 argument, but found that it did not alter the preclusive effect of res judicata or the statute of 3 limitations. Prior Order at 8. 4

Finally, plaintiff protests that the Court did not construe his case liberally. Mot. at 25-31. 5 || When a plaintiff is pro se, a court “must ‘construe the pleadings liberally’ and ‘afford the petitioner 6 || the benefit of any doubt.’” *Boquist v. Courtney*, 32 F.4th 764, 774 (9th Cir. 2022) (quoting *Hebbe 7 v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010)). “A liberal construction of a pro se complaint, however, 8 does not mean that the court will supply essential elements of a claim that are absent from the 9 complaint.” *Jd.* The Court is sympathetic to the challenges faced by pro se plaintiffs like Mr. Balu 10 and, in September 2024, provided him with legal resources and an extended deadline in the face of 11 defendants’ initial motion to dismiss. See Dkt. No. 16. But the Court could not ignore that the law 12 || of res judicata and the statute of limitations barred plaintiffs claims in this case.

#### CONCLUSION

3 15 For the foregoing reasons and for good cause shown, the Court hereby DENIES the motion a 16 || to amend or alter the judgment. IT IS SO ORDERED. 19 || Dated: April 29, 2025 20

SUSAN ILLSTON

United States District Judge 22 23 24 25 26 27 28