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.

OPINION

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA ARVIND BALU, Case No. 24-cv-02088-SI Plaintiff, ORDER DENYING PLAINTIFF'S v. RULE 59(E) MOTION TO AMEND THE JUDGMENT REBECCA DRUCKMAN, et al., Re: Dkt. No. 40 Defendants. The history of this case is known to the parties and was recited by the Court in its prior order from January 7, 2025.

See Dkt. No. 38 (“Prior Order”). In the Prior Order, the Court granted defendants’ motions to dismiss on the grounds of res judicata and the statute of limitations. Id. The Court then issued a judgment in favor of defendants. Dkt. No. 39. Plaintiff Arvind Balu timely moved the Court to alter or amend its judgment pursuant to Rule 59(e) of the Federal Rules of Civil Procedure.

Dkt. No. 40 (“Mot.”). The Court withheld ruling on the motion until plaintiff’s separate recusal motion was adjudicated.[1] For the reasons stated below, the Court DENIES the motion to amend. LEGAL STANDARD Rule 59(e) of the Federal Rules of Civil Procedure allows a party to file a motion to alter or amend the judgment of a court within twenty-eight days of that judgment.

Fed. R. Civ. P. 59(e). “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.” Zimmerman v. 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 not required; if the criminal prosecution ended without a conviction, that was sufficient. Id. at 49.[2] Plaintiff argues this Court errored in its Prior Order by not understanding that a 2004 Ninth Circuit decision barred plaintiff from filing his malicious prosecution claim in 2008, but plaintiff neglects the relevant holding in that case.

See Awabdy v. City of Adelanto, 368 F.3d 1062 (9th Cir. 2004). There, the district attorney filed a motion to dismiss charges against a former criminal defendant named Awabdy pursuant to California Penal Code section 1385. Id. at 1066. Awabdy then filed a malicious prosecution action under 42 U.S.C. § 1983 about eighteen months later. Id. The court allowed the claim because [w]hen such a dismissal is procured as the result of a motion by the prosecutor and there are allegations that the prior proceedings were instituted as the result of fraudulent conduct, a malicious prosecution plaintiff is not precluded from maintaining his action unless the defendants can establish that the charges were withdrawn on the basis of a compromise among the parties or for a cause that was not inconsistent with his guilt.

Id. at 1068. In essence, this holding puts the “burden” on the subsequent civil defendants to show a prosecutor’s dismissal of charges does not indicate innocence per Heck, rather than requiring the plaintiff to show an affirmative indication of innocence. See Nhia Kao Vang v. Decker, 607 F. App’x 728, 729 (9th Cir. 2015). Plaintiff’s case mirrors Awabdy in crucial ways.

Plaintiff’s remaining criminal convictions were reversed after his writ of habeas corpus on May 16, 2006. Balu v. Lake County et al., No. 3:08-cv-03014-SI (N.D. Cal.), Dkt. No. 39, Ex. B. Then, the district attorney moved to dismiss the charges against plaintiff under Penal Code section 1385—the same procedural mechanism as in Awabdy—and the superior court granted the motion on June 19, 2006.

Id., Ex. C. Therefore, like Awabdy, plaintiff was able to present a claim for malicious prosecution from that point until the statute of limitations had run. Later, as the Court noted in its Prior Order, the Ninth Circuit in 2020 moved further away from requiring a finding of innocence before proceeding with a malicious prosecution claim under section 1983.

See Roberts v. City of Fairbanks, 947 F.3d 1191, 1201-02 (9th Cir. 2020). So even if Awabdy had somehow barred plaintiff from filing this claim in his original 2008 lawsuit, the Heck bar had lifted by 2020, not 2022. The Court recognizes that the Prior Order did not include a full discussion of Awabdy’s application to this case. Nonetheless, the Court’s prior holding was correct: plaintiff could have proceeded on his malicious prosecution claim prior to the decision in Thompson.

The Court has not “committed clear error or made an initial decision that was manifestly unjust.” Zimmerman, 255 F.3d at 740. Therefore, plaintiff’s motion to amend the judgment on this ground is DENIED.3 II. Other Alleged Errors Plaintiff contends the Court made numerous other clear errors, but these contentions similarly lack merit. First, plaintiff challenges the Court’s consideration of the doctrine of privity to apply res judicata to the defendants.

In the Prior Order, the Court held that res judicata barred the claims against defendants Druckman, Hedstrom, Layfield, and, via privity, defendants Roxson and Carl Warren & Company. Prior Order at 4-6. Plaintiff argues that the Court improperly applied privity sua sponte, Mot. at 10, 12, 19-20, but defendants raised the issue in both of their motions to dismiss 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. In fact, plaintiff responded to the privity argument in his opposition to defendant Carl Warren’s motion. See Dkt. No. 32. Plaintiff further presents arguments that res judicata should not apply because the defendants who had been named in the prior lawsuit were not personally served or had litigated in an official rather than personal capacity.

Mot. at 10-11. The Court first notes that plaintiff could have raised this argument in his opposition to the original motions to dismiss but did not do so. 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. But even considered on the merits, plaintiff’s arguments do not persuade the Court that it erred.

Druckman and Hedstrom appeared in the former litigation and, through counsel, litigated. See, e.g., Balu v. Lake County et al., No. 3:08-cv-03014-SI (N.D. Cal.), Dkt. No. 77. Plaintiff named Layfield in the prior suit and, even if Layfield was not served, his employing agency—the Lake County Sheriff’s Department—participated in the litigation. See id. The application of res judicata does not constitute manifest injustice under these circumstances.4 Second, plaintiff challenges the Prior Order by arguing that a procedural dismissal in an earlier case does not lead to res judicata.

Mot. at 17-18. The Prior Order was clear, however, that the 2009 dismissal for failure to state a claim was on the merits, not procedural. Prior Order at 4. Plaintiff’s reliance on Ruiz v. Snohomish County Public Utility District No. 1, 824 F.3d 1161, 1162 (9th Cir. 2016) in his Rule 59(e) motion is unavailing.

In that case, the earlier action was dismissed by the district court for two reasons, a lack of personal jurisdiction and a running of the statute of limitations. Ruiz, 824 F.3d at 1164. The former is not a dismissal on the merits, but the latter is. Id. The Ninth Circuit held that when a lack of jurisdiction is one holding, the dismissal must be 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