

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Michael Benjamin Tenore v. Renee Siemsen, et al.

Tenore v. Siemsen · No. 2:25-cv-0071-JDP (P) · Decided December 8, 2025

SUMMARY

The Eastern District of California denies Michael Benjamin Tenore’s objection to the screening dismissal of his 42 U.S.C. § 1983 complaint challenging the denial of parole. The court holds that his claims concern the allegedly erroneous merits-based evaluation of parole evidence, rather than a challenge to parole procedures cognizable under *Wilkinson v. Dotson*, and grants him thirty days to file an amended complaint.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jeremy D. Peterson
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	December 8, 2025
DOCKET	2:25-cv-0071-JDP (P)
DISPOSITION	other
PROCEDURAL POSTURE	The court screened plaintiff's section 1983 complaint, dismissed it for failure to state a cognizable claim with leave to amend, and denied plaintiff's objection and request to proceed. The court allowed plaintiff thirty days to file an amended complaint.
STANDARD OF REVIEW	Screening under the requirement that a complaint state a cognizable claim under 42 U.S.C. § 1983.
PRECEDENTIAL VALUE	Unpublished district court order; nonprecedential

TOPICS

- section 1983
- prisoners rights
- civil rights
- pleadings

PRACTICE AREAS

- Civil rights
- Prisoner litigation
- Parole
- Federal civil procedure

QUESTIONS PRESENTED

1. Whether plaintiff's challenge to the merits of a state parole denial, including officials' alleged reliance on a fraudulent psychological report and failure to consider his age and health, is cognizable under 42 U.S.C. § 1983 without a prior favorable habeas judgment.
2. Whether plaintiff's objection demonstrated that the court's prior screening dismissal should be reversed.

HOLDINGS

1. A prisoner may not use section 1983 to challenge the substance or correctness of a state parole denial where the claim seeks to invalidate the denial and resulting continued incarceration; such a claim is not the type of parole-procedure challenge permitted by *Wilkinson v. Dotson*.
2. Plaintiff's objection and request to proceed were denied because they did not establish that the prior screening analysis was erroneous.

KEY QUOTATIONS

"In Wilkinson v. Dotson, the Supreme Court found that section 1983 claims challenging harsher parole guidelines could proceed because success would not necessarily render the prisoners' sentences invalid, nor would success result in immediate release or an automatically shortened period of confinement." (at 1)

"I am skeptical that plaintiff will be able to save his claim by way of amendment, but I will, again, offer him the opportunity." (at 2)

FACTUAL BACKGROUND

Plaintiff was denied parole after parole officials allegedly credited a fraudulent psychological report and failed to consider his advanced age and health problems. He characterized his claim as one challenging the parole decision and continued incarceration. The court found that the complaint challenged the officials' substantive weighing of evidence rather than the validity of parole procedures.

PROCEDURAL HISTORY

Plaintiff filed a section 1983 action alleging that defendants violated his due process rights by denying him parole. On May 9, 2025, the court screened the complaint and dismissed it with leave to amend. Plaintiff objected, arguing that *Wilkinson v. Dotson* permitted his claim to proceed without a prior favorable habeas petition. The court rejected that argument, denied the objection, and again granted leave to amend, warning that failure to amend would result in a recommendation of dismissal.

DISPOSITION

other

CASES CITED

- *Wilkinson v. Dotson*, 544 U.S. 74, 82 (2005)
- *Colt v. Venard*, No. 15-cv-4688-SK (PR), 2015 U.S. Dist. LEXIS 145091, *5 (N.D. Cal. Oct. 26, 2015)

- Swarthout v. Cooke, 562 U.S. 216, 220 (2011)

OPINION

Siemens

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 MICHAEL BENJAMIN TENORE, Case No. 2:25-cv-0071-JDP (P) 12 Plaintiff, 13 v.
ORDER 14 RENEE SIEMSEN, et al., 15 Defendants. 16 17 18 Plaintiff brings this case alleging
that defendants violated his due process rights when they 19 denied him parole. ECF No. 1. On
May 9, 2025, I screened the complaint and found that it failed 20 to state a cognizable section
1983 claim. ECF No. 10 at 2-3. I dismissed the complaint with 21 leave to amend. Id. at 3.
Pending is plaintiff's objection and request to proceed, ECF No. 17, 22 wherein he argues that my
analysis is flawed and that his claim should be allowed to proceed. 23 Specifically, he argues that
the Supreme Court's decision in *Wilkinson v. Dotson* [544 U.S. 74 24 (2005)] "expressly found
that a challenge to parole procedures was cognizable under §1983 25 without a prior favorable
habeas petition." ECF No. 17 at 3. I disagree, decline to reverse my 26 screening analysis, and
direct plaintiff to file an amended complaint within thirty days of this 27 order's entry. If he fails
to do so, I will recommend that this action be dismissed. 28 1 In *Wilkinson v. Dotson*, the Supreme
Court found that section 1983 claims challenging 2 harsher parole guidelines could proceed
because success would not necessarily render the 3 prisoners' sentences invalid, nor would success
result in immediate release or an automatically 4 shortened period of confinement. 544 U.S. at 82.
Here, plaintiff is not challenging the imposition 5 of new state guidelines; the core claim of his
case is that parole officials erred when they credited 6 a "fraudulent" psychological report, ECF
No. 1 at 10, and failed to consider his advanced age and 7 health problems, id. at 12, 15. His case
is unlike the circumstances described in *Wilkinson*, 8 because he is not attacking procedures; he is
alleging that parole officials incorrectly weighed the 9 evidence in denying him parole. Other
courts have found that similar claims cannot proceed 10 under section 1983: 11 Unlike the
plaintiffs in *Wilkinson*, plaintiff here does not seek to invalidate the state parole procedures used to
deny him parole; 12 rather, he seeks to invalidate the decision to deny him parole and his
subsequent continued incarceration by claiming that defendants 13 prepared and used a fraudulent
psychological evaluation in a predetermined decision to deny him parole at his October 2014 14
parole suitability hearing. Put simply, the gravamen of plaintiff's complaint is that defendants
wrongly denied him parole on the 15 merits on October 2014 and caused his prolonged and unjust
incarceration. 16 17 *Colt v. Venard*, No. 15-cv-4688-SK (PR), 2015 U.S. Dist. LEXIS 145091, *5
(N.D. Cal. Oct. 26, 18 2015) (internal quotation marks omitted). And, after *Wilkinson* was
decided, the Supreme Court 19 has emphasized that it is not the role of federal courts to

substantively review state parole denials. 20 See *Swarthout v. Cooke*, 562 U.S. 216, 220 (2011) (holding that, under federal law, a prisoner 21 subject to a state parole decision is entitled only to an opportunity to be heard and a state of 22 reasons for why parole was denied). Plaintiff's claims that parole officials considered an 23 erroneous report and failed to consider his age or medical status invites exactly the sort of 24 analysis that *Swarthout* forbids. 25 I am skeptical that plaintiff will be able to save his claim by way of amendment, but I will, 26 again, offer him the opportunity. 27 It is ORDERED that: 28 1. Plaintiff's objection and request to proceed, ECF No. 17, is DENIED. 1 2. Plaintiff may, within thirty days of this order's entry, file an amended complaint. If he 2 | fails to do so, I will recommend this action be dismissed. 3 3. The Clerk of Court shall send plaintiff a section 1983 complaint form with this order. 4 5 IT IS SO ORDERED. Dated: _ December 8, 2025 q_____ _

7 JEREMY D. PETERSON

8 UNITED STATES MAGISTRATE JUDGE

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