

**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

OPINION

Siemsen

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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