

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Ronald F. Martinez v. A. Parks

Martinez v. Parks · No. 1:21-cv-01496-ADA-CDB (PC) · Decided March 1, 2023

OPINION

(PC) Martinez v. Parks

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 RONALD F. MARTINEZ, Case No.: 1:21-cv-01496-ADA-CDB (PC) 12 Plaintiff, ORDER
DENYING PLAINTIFF’S MOTION

13 v. FOR LEAVE TO EXCEED THE PAGE

LIMIT FOR THE SECOND AMENDED

14 A. PARKS, COMPLAINT (Doc. 35)

15 Defendant. ORDER GRANTING LEAVE TO FILE

THIRD AMENDED COMPLAINT AND

16 DIRECTING CLERK OF COURT TO

PROVIDE PLAINTIFF WITH A CIVIL

17 RIGHTS COMPLAINT FORM

18

ORDER DENYING AS MOOT PLAINTIFF’S

19 MOTIONS REQUESTING THE COURT TO

SCREEN FIRST AND SECOND AMENDED

20 COMPLAINTS (Docs. 34, 37) 21

THIRTY (30) DAY DEADLINE

22 23 Plaintiff Ronald F. Martinez is a state prisoner proceeding pro se and in forma pauperis 24
in this civil rights action filed under 42 U.S.C. § 1983.

25 I. PROCEDURAL HISTORY

26 On October 7, 2021, Plaintiff commenced this action by filing a 61-page complaint. 27 (Doc.
1.) Plaintiff filed a motion to amend the complaint—prior to screening and service in the 28
interest of conserving judicial time and resources—to add a defendant and a retaliation claim. 1
(Doc. 16.) The Court granted the motion and afforded Plaintiff thirty days to file a first amended 2
complaint (“FAC”), subject to a 25-page limitation: 3 . . . Rule 8 requires the complaint to be “a
short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P.

8(a)(1). The rule also 4 provides that “[e]ach allegation must be simple, concise, and direct.” Id. at 8(d)(1). Plaintiff’s original complaint is forty-two handwritten pages, including factual 5 details unrelated to his First Amendment claims. Therefore, Plaintiff shall limit his 6 amended complaint to twenty-five (25) pages[.] 7 (Doc. 17 at 2 (alteration in original).) 8 Despite this order, on February 2, 2022, Plaintiff filed a motion to exceed the page limit 9 for the FAC. (Doc. 19.) At the same time, Plaintiff lodged a 109-page FAC, consisting of 165 10 paragraphs—or approximately 65 pages—of handwritten text. (Doc. 20.) On April 5, 2022, the 11 assigned magistrate judge entered an order finding the lodged FAC was inappropriate for filing 12 and denying the motion to exceed the 25-page page limit. (Doc. 21.) However, the Court again 13 granted Plaintiff leave to file an FAC that complied with Rule 8 of the Federal Rules of Civil 14 Procedure and does not exceed a total of 25 pages. (Id. at 3.) Plaintiff filed a motion for relief 15 from this order pursuant to Rule 60, as well as objections to the magistrate judge’s ruling.¹ 16 (Docs. 22, 23.) 17 During the pendency of the Rule 60 motion and objections, on May 2, 2022, Plaintiff 18 filed another motion for leave to file an FAC exceeding 25-pages and lodged a 39-page FAC. 19 (Docs. 27, 28.) The Court granted Plaintiff’s motion: “Upon review, although the pro se 20 Plaintiff has not strictly complied with the prior court orders, the Court will accept Plaintiff’s 21 FAC as filed and screen the FAC in due course.” (Doc. 29.) 22 Plaintiff filed a motion requesting the Court to screen the FAC. (Doc. 34.) 23 Approximately fifteen days later, Plaintiff filed a motion to exceed the 25-page limit in a second 24 amended complaint (“SAC”). (Doc. 35) Plaintiff submitted his own declaration in support of 25 the motion, asserting: 26 27 1 The district judge denied the Rule 60 motion and overruled the objections, which were rendered 28 moot because the Court granted Plaintiff’s leave to file the 39-page first amended complaint. (See Docs. 1 . . . I amended the complaint for a SAC to add incident where both defendant’s Parks and Lirones retaliated against. The attached exhibits are material evidence 2 of said retaliatory animus. I also attach exhibits to my complaints because the 3 evidence is referred to when engaging in settlement discussion(s) and/or for my Demend For Settlement(s). . . . If I tried to make the SAC any shorter it would 4 omit some acts of retaliation by defendant’s by leaving out the fact(s) leading up 5 to the act(s) of retaliation. 6 (Id. at 3 (scrivener’s errors in original).) Plaintiff concurrently lodged a 46-page SAC. (Doc. 7 36.) 8 Upon preliminary review of the proposed SAC, the Court finds the pleading is 9 inappropriate for screening. The pleading does not comply with Federal Rule of Civil Procedure 10 8, which requires the complaint to be “a short and plain statement of the claim showing that the 11 pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(1). The rule also provides that “[e]ach 12 allegation must be simple, concise, and direct.” Id. at 8(d)(1). 13 Although Plaintiff’s claims do not present novel or complex legal theories, the SAC 14 consists of 4 pages of the civil rights complaint form and approximately 22 typed pages,² with 15 212 paragraphs. The narrative contains excessive and extraneous details; recreated quotations 16 and conversations; and irrelevant and unhelpful comments.³ Because of this, the Court is unable 17 to discern whether Plaintiff’s claims have merit. Plaintiff also attached exhibits that he describes 18 as material

evidence of retaliatory animus. However, such exhibits, particularly the declarations 19 of Pena and Laundry, are unnecessary at this pleading and screening stage of the proceedings. 20 The nature of Plaintiff's First Amendment claims and pertinent facts do not warrant an extension 21 of the 25-page limit. 22 The Court will grant Plaintiff leave to file a third amended complaint ("TAC") that is 23 limited to a total of 25 pages, typed and double spaced, and in compliance with Rule 8. Absent 24 extraordinary circumstances, the Court will not entertain another request to exceed the 25-page 25 2 The Court greatly appreciates that Plaintiff typed this pleading due to the legibility of his 26 previous, handwritten pleadings. However, the document is not double spaced as required by Local Rule 130(c), making it lengthier than contemplated by the rule. 27 3 For example, Plaintiff states: "[Had] Plaintiff been the same dummy he was 20-years ago he 28 would have ass[au]lted attacked, battered, defendant Parks for the disrespect and yelling at him like he was 1 | limitation. Plaintiff is reminded that a TAC supersedes the prior complaints. Lacey v. Maricopa 2 | Cnty., 693 F.3d 896, 927 (9th Cir. 2012). Thus, the TAC must be "complete in itself without 3 || reference to the prior or superseded pleading." L.R. 220. 4 Accordingly, it is hereby ORDERED: 5 1. Plaintiff's motion for leave to exceed the page limit for the second amended 6 complaint, (Doc. 35), is DENIED; 7 2. Plaintiff shall file, within thirty (30) days of the date of this Order, a third 8 amended complaint that complies with Rule 8 and does not exceed a total of 9 twenty-five (25) pages. Alternatively, Plaintiff may voluntarily dismiss this 10 action; 11 3. Plaintiff's motion requesting the Court to screen the first amended complaint, 12 (Doc. 34), is DENIED AS MOOT; 13 4. Plaintiff's motion requesting the Court to screen the second amended complaint, 14 (Doc. 37), is DENIED AS MOOT; 15 5. The Clerk of Court is DIRECTED to provide Plaintiff with a Civil Rights 16 Complaint form. 17 | If Plaintiff fails to comply with this order, the Court will screen the first amended complaint 18 | filed on May 2, 2022, (Doc. 28), in due course. 19 IT IS SO ORDERED. 20 || Dated: _March 1, 2023 _ □□□

UNITED STATES MAGISTRATE JUDGE

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