

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Havea v. C.R. England

No. 25-cv-01406-DMR, United States District Court for the Northern District of California (June 24, 2025)

SUMMARY

The United States District Court for the Northern District of California dismissed Sosaia Havea’s amended complaint under 28 U.S.C. § 1915(e) for failure to state a claim and lack of standing to assert a claim under 18 U.S.C. § 242. The court denied the defendant’s motion to dismiss as moot and denied Havea’s motion to proceed in forma pauperis on appeal. The court certified that any appeal would not be taken in good faith and ordered the action closed.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Donna M. Ryu
JURISDICTION	United States District Court for the Northern District of California
DECIDED	June 24, 2025
DOCKET	25-cv-01406-DMR
DISPOSITION	dismissed
PROCEDURAL POSTURE	The plaintiff filed an amended pro se complaint after the court dismissed the original complaint under 28 U.S.C. § 1915(e). The court screened the amended complaint, considered the defendant's motion to dismiss, and ruled on the plaintiff's motion to proceed in forma pauperis on appeal.
STANDARD OF REVIEW	Under 28 U.S.C. § 1915(e)(2)(B), the court continuously screens an action filed in forma pauperis and must dismiss it if it is frivolous, malicious, fails to state a claim, or seeks monetary relief from an immune defendant. Failure to state a claim is assessed under the plausibility standard applicable to Federal Rule of Civil Procedure 12(b)(6), with pro se pleadings liberally construed. An appeal is taken in good faith only when it presents a nonfrivolous issue with an arguable basis in fact or law.
PRECEDENTIAL VALUE	unpublished

PARTIES

Sosaia Havea v. C.R. England

TOPICS

standing

subject matter jurisdiction

civil procedure

appellate procedure

civil rights

PRACTICE AREAS

civil procedure

civil rights

federal courts

appellate procedure

QUESTIONS PRESENTED

1. Whether the first amended complaint stated a cognizable claim under 18 U.S.C. § 242.
2. Whether the plaintiff had standing or otherwise established subject matter jurisdiction to pursue the asserted claims.
3. Whether the amended complaint should be dismissed without further leave to amend after the plaintiff had already been given an opportunity to cure identified deficiencies.
4. Whether the defendant's motion to dismiss should be denied as moot after dismissal of the amended complaint.
5. Whether the plaintiff should be permitted to proceed in forma pauperis on appeal and whether the appeal should be certified as not taken in good faith.

HOLDINGS

1. A private citizen lacks a judicially cognizable interest in the prosecution or nonprosecution of another and cannot initiate a federal criminal proceeding under 18 U.S.C. § 242; therefore, the amended complaint failed to state a cognizable claim.
2. The amended complaint was subject to dismissal under 28 U.S.C. § 1915(e)(2)(B) because it failed to state a claim and lacked a basis for subject matter jurisdiction.
3. Dismissal without further leave to amend was proper because the plaintiff had already been given an opportunity to address the deficiencies identified in the prior screening order and the amended complaint remained deficient.
4. The plaintiff was not entitled to proceed in forma pauperis on appeal because the identified appeal had no arguable basis in fact or law and was therefore frivolous.

KEY QUOTATIONS

“the court finds that it again fails to state a claim on which relief may be granted.” (at 1)

“Individuals cannot file criminal charges in the United States District Court. Rather, criminal proceedings in federal court are initiated by the government, usually through the United States Attorney’s Office.” (at 2)

“Plaintiff’s appeal is frivolous, as she identifies no appealable order or judgment.” (at 3)

“Any appeal, therefore, would be frivolous and not in good faith.” (at 4)

FACTUAL BACKGROUND

Sosaia Havea filed an amended complaint against C.R. England, a private company, asserting a claim under 18 U.S.C. § 242 and attempting to assert constitutional claims. The amended complaint sought to invoke criminal and constitutional theories based on an alleged 2017 incident. The court found that Havea, a private citizen, could not prosecute a criminal statute or assert a constitutional claim against a private company, and that the amended complaint did not establish a basis for subject matter jurisdiction.

PROCEDURAL HISTORY

The court granted the plaintiff's initial application to proceed in forma pauperis but dismissed the original complaint for failure to state a claim. The plaintiff filed a first amended complaint, and the defendant filed a motion to dismiss. The plaintiff then filed a notice of appeal and an appellate IFP motion. The court dismissed the amended complaint without further leave to amend, denied the defendant's motion as moot, denied appellate IFP status, certified that an appeal would not be taken in good faith, and ordered the clerk to close the action.

DISPOSITION

dismissed

CASES CITED

- Denton v. Hernandez, 504 U.S. 25, 32 (1992)
- Franklin v. Murphy, 745 F.2d 1221, 1227-28 (9th Cir. 1984)
- Ashcroft v. Iqbal, 556 U.S. 662, 677-78 (2009)
- Erickson v. Pardus, 551 U.S. 89 (2007) (per curiam)
- Haines v. Kerner, 404 U.S. 519, 520-21 (1972)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 554 (2007)
- Akhtar v. Mesa, 698 F.3d 1202, 1212 (9th Cir. 2012)
- L.R. v. Mueller, No. 23-CV-03421-PHK, 2025 WL 1635505, at *2 (N.D. Cal. June 9, 2025)
- Carey v. Torres, No. 24-cv-09534-TSH, 2025 WL 277399, at *5 (N.D. Cal. Jan. 23, 2025)
- Hooker v. Am. Airlines, 302 F.3d 1091, 1092 (9th Cir. 2002)
- O’Loughlin v. Doe, 920 F.2d 614, 617 (9th Cir. 1990)

OPINION

1 2 3 4 UNITED STATES DISTRICT COURT 5 NORTHERN DISTRICT OF CALIFORNIA 6 7
SOSAIA HAVEA, Case No. 25-cv-01406-DMR 8 Plaintiff, ORDER DISMISSING AMENDED
COMPLAINT PURSUANT TO 9 v. 28 U.S.C. § 1915(E), DENYING MOTION TO DISMISS AS
MOOT, 10 C.R. ENGLAND, AND DENYING MOTION FOR LEAVE TO PROCEED IN
FORMA 11 Defendant. PAUPERIS 12 Self-represented Plaintiff Sosaia Havea filed a Complaint
("Compl.") and an application for 13 leave to proceed in forma pauperis ("IFP").

[Docket Nos. 1, 2.] The court granted the IFP 14 application, but dismissed the Complaint pursuant to 28 U.S.C. § 1915(e) for failure to state a claim 15 on which relief may be granted. [Docket No. 16, “Screening Order.”] Plaintiff has since filed a 16 first amended complaint on June 16, 2025. [Docket No. 17, “FAC”.] All parties have consented to 17 the jurisdiction of a magistrate judge pursuant to 28 U.S.C. § 636(c).

[Docket Nos. 10, 14.] 18 Having reviewed the FAC pursuant to 28 U.S.C. § 1915(e), the court finds that it again fails 19 to state a claim on which relief may be granted. Plaintiff was already given an opportunity to address 20 the deficiencies identified in the Screening Order by filing a FAC, but as discussed below, the FAC 21 remains deficient. This case is therefore dismissed without further leave to amend.

Defendant C.R. 22 England’s motion to dismiss (Docket No. 18) is denied as moot. 23 In addition, on June 23, 2025, Plaintiff filed a notice of appeal (Docket No. 25) and motion 24 for leave to proceed in forma pauperis (Docket No. 26, “IFP Motion”).

For the reasons stated below, 25 the court denies the IFP Motion and certifies that any appeal would not be taken “in good faith” 26 pursuant to 28 U.S.C. § 1915(a)(3). 27 I. DISCUSSION 1 A. FAC Screening 2 Although the court previously granted Plaintiff’s application to proceed in forma pauperis, 3 the court is under a continuing duty to dismiss a case filed without the payment of the filing fee 4 whenever it determines that the action “(i) is frivolous or malicious; (ii) fails to state a claim on 5 which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from 6 such relief.” 28 U.S.C. § 1915(e)(2)(B)(i)-(iii).

If the court dismisses a case pursuant to 7 §1915(e)(2)(B), the plaintiff may still file the same complaint by paying the filing fee. This is 8 because the court’s § 1915(e)(2)(B) dismissal is not on the merits, but rather an exercise of the 9 court’s discretion under the IFP statute. *Denton v. Hernandez*, 504 U.S. 25, 32 (1992). 10 To make the determination under 28 U.S.C. § 1915(e)(2) (B), courts assess whether there is 11 an arguable factual and legal basis for the asserted wrong, “however inartfully pleaded.” *Franklin 12 v. Murphy*, 745 F.2d 1221, 1227-28 (9th Cir.

1984). Courts have the authority to dismiss complaints 13 founded on “wholly fanciful” factual allegations for lack of subject matter jurisdiction. *Id.* at 1228. 14 A court can also dismiss a complaint where it is based solely on conclusory statements, naked 15 assertions without any factual basis, or allegations that are not plausible on their face. *Ashcroft v. 16 Iqbal*, 556 U.S. 662, 677-78 (2009); see also *Erickson v. Pardus*, 551 U.S. 89 (2007) (per curiam).

17 Although pro se pleadings are liberally construed and held to a less stringent standard than 18 those drafted by lawyers, see *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972), a complaint, or portion 19 thereof, should be dismissed for failure to state a claim if it fails to set forth “enough facts to state a 20 claim to relief that is plausible on its face.” *Bell Atl.*

Corp. v. Twombly, 550 U.S. 544, 554 (2007); 21 see also Fed. R. Civ. P. 12(b)(6). “[A] district court should not dismiss a pro se complaint without 22 leave to amend unless it is absolutely clear that the deficiencies of the complaint could not be cured 23 by amendment.” Akhtar v. Mesa, 698 F.3d 1202, 1212 (9th Cir. 2012) (quotations omitted). 24 The FAC states a single claim under 18 U.S.C. § 242.

Section 242 is a “criminal statute[], 25 and it is well-settled that ‘a private citizen lacks a judicially cognizable interest in the prosecution 26 or non-prosecution of another.’” L.R. v. Mueller, No. 23-CV-03421-PHK, 2025 WL 1635505, at 27 *2 (N.D. Cal. June 9, 2025) (quoting Carey v. Torres, No. 24-cv-09534-TSH, 2025 WL 277399, at 1 *5 (N.D. Cal. Jan. 23, 2025); and collecting cases). ““Individuals cannot file criminal charges in the 2 United States District Court.

Rather, criminal proceedings in federal court are initiated by the 3 government, usually through the United States Attorney’s Office.” Id. (quoting Casey, 2025 WL 4 277399, at *5). Plaintiff therefore lacks standing to assert a claim under § 242, and the court 5 dismisses the FAC pursuant to 28 U.S.C. § 1915(e)(2)(B)(i).1 6 Although Plaintiff has had an opportunity to address the issues raised in the Screening Order, 7 the FAC still fails to allege a basis for subject matter jurisdiction.

For that reason, the dismissal is 8 without leave to amend, and Defendant’s motion to dismiss is denied as moot. 9 B. Motion for Leave to Proceed In Forma Pauperis 10 Plaintiff also seeks to proceed in forma pauperis in her recently-filed appeal. “A party who 11 was permitted to proceed in forma pauperis in the district-court action... may proceed on appeal 12 in forma pauperis without further authorization, unless:... the district court--before or after the 13 notice of appeal is filed--certifies that the appeal is not taken in good faith or finds that the party is 14 not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the 15 certification or finding[.]” Fed.

R. App. P. 24(a)(3). An appeal is in “good faith” where it seeks 16 review of any issue that is “nonfrivolous.” Hooker v. Am. Airlines, 302 F.3d 1091, 1092 (9th 17 Cir. 2002). An issue is “frivolous” if it has “no arguable basis in fact or law.” See O’Loughlin v. 18 Doe, 920 F.2d 614, 617 (9th Cir. 1990). 19 Plaintiff’s appeal is frivolous, as she identifies no appealable order or judgment.

In her 20 notice of appeal, Plaintiff lists the “[d]ate of judgment or order you are appealing” as “6/16/2025.” 21 [Docket No. 25 at 1.] The court did not issue any orders or judgments on June 16, 2025.2 For the 22 “[d]ocket entry of judgment or order you are appealing,” she lists “3:25-cv-02860.” Id. Plaintiff 23 24 1 Because the court dismisses the FAC for lack of standing, it does not address whether Plaintiff’s 25 allegation regarding her mental state (FAC at 4) is sufficient to toll the statute of limitations.

See Screening Order at 3 (noting that “the alleged incident took place in September 2017 and any legal claim based on the incident would likely be barred by the applicable statute of limitations.”). Defendant filed its motion to dismiss on June 16, 2025. [Docket No. 18.]

As stated above, the Plaintiff also is not a party to, and the undersigned is not presiding over, case number “3:25-cv-02860” pending in the Northern District of California. As Plaintiff’s notice of appeal has “no arguable basis in fact or law,” O’Loughlin, 920 F.2d at 617, her appeal is frivolous. Furthermore, Plaintiff’s Complaint and FAC attempted to assert constitutional and criminal claims that are indisputably unavailable to Plaintiff, a private citizen, and against Defendant, a private company.

See § I(A), supra; Screening Order at 2-3 (“Havea sues Defendant C.R. England for violation of the ‘14th Amendment right to equal protection under the law.’... Havea cannot assert a constitutional claim against Defendant because it is a private company.”). Any appeal, therefore, would be frivolous and not in good faith. II. CONCLUSION For the reasons above, the court orders the following:

The FAC fails to state a claim pursuant to 28 U.S.C. § 1915(e) and is dismissed without leave to amend. Defendant’s motion to dismiss is denied as moot. Plaintiff’s IFP Motion is denied. The court further certifies that any in forma pauperis appeal taken from this order, or the Screening Order, would not be taken in good faith pursuant to 28 U.S.C. § 1915(a)(3).

The Clerk of Court shall close this action. IT IS SO ORDERED. Dated: June 24, 2025

DONNA M. RYU
Chief Magistrate Judge