

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Rogers v. Valdez

Rogers v. Valdez · No. 2:24-cv-02506-TLN-CSK · Decided April 9, 2025

SUMMARY

The Eastern District of California recommends denying Nicole Jean Rogers’s application to proceed in forma pauperis and dismissing her complaint against Moses Valdez without leave to amend. The court concludes that the complaint fails to establish federal-question or diversity jurisdiction and does not comply with Federal Rule of Civil Procedure 8. The recommendation also directs that the case be closed.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Chi Soo Kim
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	April 9, 2025
DOCKET	2:24-cv-02506-TLN-CSK
DISPOSITION	other
PROCEDURAL POSTURE	Findings and recommendations on a pro se plaintiff's application to proceed in forma pauperis and screening of the complaint under 28 U.S.C. § 1915(e).
STANDARD OF REVIEW	Under 28 U.S.C. § 1915(e)(2)(B), the court must screen an action brought in forma pauperis and dismiss it if it is frivolous or malicious, fails to state a claim, or seeks monetary relief from an immune defendant. The court accepts well-pleaded factual allegations as true, construes them in the light most favorable to the plaintiff, liberally construes pro se pleadings, and does not accept conclusory allegations, unreasonable inferences, or unwarranted factual deductions.
PRECEDENTIAL VALUE	Unknown; findings and recommendations in an individual district court case.
PARTIES	Nicole Jean Rogers v. Moses Valdez

TOPICS

subject matter jurisdiction

pleadings

civil procedure

motions to dismiss

PRACTICE AREAS

civil procedure

federal jurisdiction

pleading and screening

QUESTIONS PRESENTED

1. Whether Plaintiff established federal-question or diversity subject matter jurisdiction.
2. Whether the complaint stated a short and plain claim for relief as required by Federal Rule of Civil Procedure 8.
3. Whether the complaint was subject to dismissal under 28 U.S.C. § 1915(e)(2)(B).
4. Whether leave to amend should be denied as futile.
5. Whether Plaintiff's application to proceed in forma pauperis should be denied because the action was facially frivolous or without merit.

HOLDINGS

1. The complaint did not establish federal-question jurisdiction because the asserted rape and economic-abuse claims were not based on federal law, entrapment is a defense rather than an independent claim, and the federal embezzlement statute does not provide a private right of action.
2. The complaint did not establish diversity jurisdiction because it failed to allege complete diversity of citizenship, and the allegations indicated that both parties appeared to be California citizens.
3. The complaint failed to provide a short and plain statement of a claim because it did not clearly identify the claims being asserted or allege sufficient facts showing the elements of those claims.
4. Dismissal without leave to amend was recommended because the complaint was not cogent or non-frivolous, lacked subject matter jurisdiction, and its deficiencies appeared incapable of being cured by amendment.
5. The IFP application should be denied because, although Plaintiff made the required financial showing, the proposed action was facially frivolous, without merit, failed to state a claim, and lacked subject matter jurisdiction.

KEY QUOTATIONS

“Subject-matter jurisdiction can never be waived or forfeited” (at 3)

“A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” (at 4)

FACTUAL BACKGROUND

Plaintiff alleged that Defendant raped her in California in 1993 and later manipulated information relating to jewelry stores, a purported trust, and alleged criminal activity. She identified rape, entrapment, economic abuse, and embezzlement on the civil cover sheet and sought \$10 million. The complaint and civil cover sheet

identified California addresses or residence information but also checked a box indicating a foreign nation without alleging facts establishing diverse citizenship.

PROCEDURAL HISTORY

Plaintiff filed a complaint and an application to proceed in forma pauperis. The magistrate judge concluded that Plaintiff financially qualified under 28 U.S.C. § 1915(a), but recommended denying IFP status because the action was facially frivolous, failed to state a claim, and did not establish subject matter jurisdiction. The magistrate judge also recommended dismissal without leave to amend and closure of the case, subject to objections and review by the assigned district judge under 28 U.S.C. § 636(b)(1).

DISPOSITION

other

CASES CITED

- Escobedo v. Applebees, 787 F.3d 1226, 1234 (9th Cir. 2015)
- Minetti v. Port of Seattle, 152 F.3d 1113, 1115 (9th Cir. 1998)
- Tripathi v. First National Bank & Trust, 821 F.2d 1368, 1370 (9th Cir. 1987)
- McGee v. Department of Child Support Services, 584 F. App'x 638 (9th Cir. 2014)
- Smart v. Heinze, 347 F.2d 114, 116 (9th Cir. 1965)
- Lopez v. Smith, 203 F.3d 1122, 1126-27, 1130-31 (9th Cir. 2000) (en banc)
- Neitzke v. Williams, 490 U.S. 319, 325, 327 (1989)
- Von Saher v. Norton Simon Museum of Art at Pasadena, 592 F.3d 954, 960 (9th Cir. 2010), cert. denied, 564 U.S. 1037 (2011)
- Hebbe v. Pliler, 627 F.3d 338, 342 & n.7 (9th Cir. 2010)
- Western Mining Council v. Watt, 643 F.2d 618, 624 (9th Cir. 1981)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-57, 570 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Cahill v. Liberty Mutual Insurance Co., 80 F.3d 336, 339 (9th Cir. 1996)
- Chilkat Indian Village v. Johnson, 870 F.2d 1469, 1472 (9th Cir. 1989)
- Retanan v. California Department of Corrections & Rehabilitation, 2012 WL 1833888, at *5 (E.D. Cal. May 18, 2012)
- United States v. Gomez, 6 F.4th 992, 1001 (9th Cir. 2021)
- Kokkonen v. Guardian Life Insurance Co., 511 U.S. 375, 377 (1994)
- Casey v. Lewis, 4 F.3d 1516, 1519 (9th Cir. 1993)
- Bender v. Williamsport Area School District, 475 U.S. 534, 546 (1986)
- Morongo Band of Mission Indians v. California State Board of Equalization, 858 F.2d 1376, 1380 (9th Cir. 1988)
- Gonzalez v. Thaler, 565 U.S. 134, 141 (2012)

- McHenry v. Renne, 84 F.3d 1172, 1178-80 (9th Cir. 1996)
- Rogers v. Ward-Rust, 2024 WL 4505531 (E.D. Cal. Oct. 16, 2024)
- Rogers v. Eastern Indians, 2024 WL 5220462 (E.D. Cal. Dec. 26, 2024)
- Rogers v. Federal Background Investigation - Background Check, 2024 WL 4626231 (E.D. Cal. Oct. 30, 2024)
- Cato v. United States, 70 F.3d 1103, 1105-06 (9th Cir. 1995)
- Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998)
- Martinez v. Yist, 951 F.2d 1153, 1156-57 (9th Cir. 1991)

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