

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Jeff Kile v. J. Doerer

No. 1:24-cv-01177-KES-SAB (PC) · No. No. 1:24-cv-01177-KES-SAB (PC) · Decided February 25, 2025

SUMMARY

The United States Magistrate Judge recommends denying Plaintiff Jeff Kile’s motion for class certification in a pro se civil rights action. The recommendation concludes that an incarcerated, non-lawyer proceeding without counsel cannot fairly and adequately represent a class under Federal Rule of Civil Procedure 23(a)(4), and also notes that the motion does not provide enough information to assess permissive joinder under Rule 20.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Stanley A. Boone
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	February 25, 2025
DOCKET	No. 1:24-cv-01177-KES-SAB (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, proceeding pro se and in forma pauperis in a civil-rights action, moved for class certification. The magistrate judge issued findings and a recommendation that the motion be denied, subject to review by the assigned district judge.
STANDARD OF REVIEW	Class certification is governed by the prerequisites in Federal Rule of Civil Procedure 23(a), including whether the representative will fairly and adequately protect the interests of the class.
PRECEDENTIAL VALUE	nonprecedential findings and recommendation; final status unknown

TOPICS

- class actions
- civil procedure
- joinder
- prisoners rights
- civil rights

PRACTICE AREAS

- civil procedure
- civil rights
- class actions
- prisoners rights

QUESTIONS PRESENTED

1. Whether Plaintiff, an incarcerated nonlawyer proceeding pro se, could satisfy Federal Rule of Civil Procedure 23(a)(4)'s requirement that a class representative fairly and adequately protect the interests of the class.
2. Whether Plaintiff's motion for class certification should be denied.

HOLDINGS

1. An incarcerated nonlawyer proceeding pro se cannot fairly and adequately protect the interests of a putative class under Federal Rule of Civil Procedure 23(a)(4), and therefore cannot serve as the class representative in this action.
2. Plaintiff's motion for class certification should be denied because he cannot satisfy Rule 23(a)(4)'s adequacy-of-representation requirement.

KEY QUOTATIONS

“This rule becomes almost absolute when, as here, the putative class representative is incarcerated and proceeding pro se.” (at 1)

“Accordingly, Plaintiff simply cannot “fairly and adequately protect the interests of the class,” as required by Rule 23(a)(4) of the Federal Rules of Civil Procedure.” (at 1)

“Based on the foregoing, it is HEREBY RECOMMENDED that Plaintiff’s motion for class certification be DENIED.” (at 2)

FACTUAL BACKGROUND

Plaintiff was incarcerated and proceeding without counsel in a civil-rights action. He sought to represent a class based on his assertion that at least 27 plaintiffs had filed substantially similar claims and that the class would encompass approximately 1,000 people. The court focused on Plaintiff's inability, as a nonlawyer proceeding pro se, to fairly and adequately protect the interests of absent class members.

PROCEDURAL HISTORY

Jeff Kile filed a civil-rights action against J. Doerer and moved for class certification on February 20, 2025, asserting that at least 27 plaintiffs had filed substantially similar claims and that the proposed class included approximately 1,000 people. The magistrate judge recommended denial because a nonlawyer proceeding pro se, particularly an incarcerated pro se litigant, cannot fairly and adequately represent a class under Federal Rule of Civil Procedure 23(a)(4).

DISPOSITION

other

CASES CITED

- *McShane v. United States*, 366 F.2d 286 (9th Cir. 1966)
- *Oxendine v. Williams*, 509 F.2d 1405, 1407 (4th Cir. 1975)
- *Martin v. Middendorf*, 420 F. Supp. 779 (D.D.C. 1976)
- *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014)
- *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)
- *Visendi v. Bank of America, N.A.*, 733 F.3d 863, 870 (9th Cir. 2013)
- *Coleman v. Quaker Oats Co.*, 232 F.3d 1271, 1296 (9th Cir. 2000)
- *Desert Empire Bank v. Ins. Co. of N. Am.*, 623 F.2d 1371, 1375 (9th Cir. 1980)

OPINION

1 2 3 UNITED STATES DISTRICT COURT 4 EASTERN DISTRICT OF CALIFORNIA 5 6
JEFF KILE, No. 1:24-cv-01177-KES-SAB (PC) 7 Plaintiff, FINDINGS AND
RECOMMENDATION TO DENY PLAINTIFF’S MOTION FOR CLASS 8 v. CERTIFICATION
9 J. DOERER, (ECF No. 12) 10 Defendant. 11 12 Plaintiff is proceeding pro se and in forma
pauperis in this civil rights action. 13 Currently before the Court is Plaintiff’s motion for class
certification, filed February 20, 14 2025.

Plaintiff submits that “there are at least 27 Plaintiffs that filed substantially the same claims 15 in
this Court and the class extends to approximately one thousand people.” (ECF No. 12.) 16 I. 17
DISCUSSION 18 Federal Rule of Civil Procedure 23(a) governs whether a case can proceed as
a class 19 action.

The prerequisites to maintenance of a class action are that (1) the class is so numerous 20 that
joinder of all members is impracticable, (2) there are common questions of law and fact, (3) 21 the
representative party’s claims or defenses are typical of the class claims or defenses, and (4) 22 the
representative party will fairly and adequately protect the class interests.

See Fed. R. Civ. P. 23 23(a). 24 Plaintiff is a non-lawyer proceeding without counsel, and it is well
established that a 25 layperson cannot ordinarily represent the interests of a class. See *McShane v.*
United States, 366 26 F.2d 286 (9th Cir. 1966). This rule becomes almost absolute when, as here,
the putative class 27 representative is incarcerated and proceeding pro se.

Oxendine v. Williams, 509 F.2d 1405, 1407 28 eee ee nee nnn nnn nnn ee nnn OE OO I I NED 1 |
(4th Cir. 1975). Accordingly, Plaintiff simply cannot “fairly and adequately protect the interests 2 |
of the class,” as required by Rule 23(a)(4) of the Federal Rules of Civil Procedure. See *Martin v.* 3
| *Middendorf*, 420 F. Supp. 779 (D.D.C. 1976).

Therefore, Plaintiff’s motion for class certification 4 | must be denied.’ 5 II. 6
RECOMMENDATION 7 Based on the foregoing, it is HEREBY RECOMMENDED that
Plaintiff’s motion for 8 | class certification be DENIED. 9 This Findings and Recommendation

will be submitted to the United States District Judge 10 || assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)().

Within fourteen (14) 11 | days after being served with this Findings and Recommendation, Plaintiff may file written 12 | objections with the Court, limited to 15 pages in length, including exhibits. The document should 13 | be captioned “Objections to Magistrate Judge’s Findings and Recommendation.” Plaintiff is 14 | advised that failure to file objections within the specified time may result in the waiver of rights 15 | on appeal.

Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. 16 | Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)). 17 18 IT IS SO ORDERED. DAM Le 19 | Dated: _ February 25, 2025 eee STANLEY A. BOONE 20 United States Magistrate Judge 21 22 23 24 ‘In addition, Federal Rule of Civil Procedure 20(a)(2) provides for the permissive joinder of defendants to an action if: (A) any right to relief asserted against them jointly, severally, or in the alternative with respect to or arising out of 25 the same transaction, occurrence, or series of transactions or occurrences; and (B) any question of law or fact common to all defendants will arise in the action.

Fed. R. Civ. P. 20(a)(2)(A) and (B). “[O]nce these requirements are 26 met, a district court must examine whether permissive joinder would ‘comport with the principles of fundamental fairness’ or would result in prejudice to either side.” Visendi v. Bank of America, N.A., 733 F.3d 863, 870 (9th Cir. 2013) (citing Coleman v. Quaker Oats Co., 232 F.3d 1271, 1296 (9th Cir.

2000), quoting Desert Empire Bank v. Ins. 27 Co. of N. Am., 623 F.2d 1371, 1375 (9th Cir. 1980)). Plaintiffs motion lacks sufficient information to determine 28 whether joinder would advance, or frustrate, the principles of fundamental fairness that underlie Rule 20. 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28