

**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.

OPINION

(PC) Kile v. Doerer

PER CURIAM.

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3 UNITED STATES DISTRICT COURT

4 EASTERN DISTRICT OF CALIFORNIA

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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 F.2d 286 (9th Cir. 1966). This rule becomes almost absolute when, as here, the putative class representative is incarcerated and proceeding pro se. *Oxendine v. Williams*, 509 F.2d 1405, 1407 (9th Cir. 1975). 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. See *Martin v. Middendorf*, 420 F. Supp. 779 (D.D.C. 1976). Therefore, Plaintiff’s motion for class certification must be denied.’ 5 II.

6 RECOMMENDATION

7 Based on the foregoing, it is HEREBY RECOMMENDED that Plaintiff’s motion for 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)(1). 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. 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. 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