

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

David Bennett v. Federal Bureau of Investigation, et al.

Bennett v. FBI · No. 2:24-cv-1038-KJM-SCR · Decided June 3, 2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 DAVID BENNETT, No. 2:24-cv-1038-KJM-SCR 12 Plaintiff, 13 v.
FINDINGS AND RECOMMENDATIONS 14 FEDERAL BUREAU OF INVESTIGATION, et
al., 15 Defendants. 16 17 18 Plaintiff is in Yolo County pretrial custody and filed this civil rights
action pursuant to 42 19 U.S.C. § 1983.

He proceeds pro se. Currently pending before the court are plaintiff’s motions for 20 a preliminary
injunction as well as the appointment of a guardian ad litem (“GAL”). ECF Nos. 21 10, 12, 14. In
a concurrently issued order, the undersigned screened plaintiff’s complaint, 22 concluded that it
did not state a claim for relief against any defendant, and granted plaintiff leave 23 to file an
amended complaint.

The undersigned here recommends that Plaintiff’s motions for a 24 preliminary injunction and
appointment of a GAL be denied. 25 I. Motion for a Preliminary Injunction 26 A. Plaintiff’s
Motion 27 In a motion docketed on June 25, 2024, plaintiff asserts that he is “under attack by
Google 28 contractors, the FBI and MRB California Enterprise by eavesdropping” on what he
reads and 1 writes, all in order to deter this lawsuit.

ECF No. 10 at 2. 2 B. Legal Standards 3 “The proper legal standard for preliminary injunctive
relief requires a party to demonstrate 4 ‘that he is likely to succeed on the merits, that he is likely
to suffer irreparable harm in the 5 absence of preliminary relief, that the balance of equities tips in
his favor, and that an injunction 6 is in the public interest.’” *Stormans, Inc. v. Selecky*, 586 F.3d
1109, 1127 (9th Cir.

2009) (citing 7 *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008) (internal
quotations omitted). A 8 party may also obtain a preliminary injunction under a “sliding scale”
approach by showing [1] a 9 likelihood of irreparable harm, [2] that an injunction is in the public
interest, and—on a “sliding 10 scale”—“‘serious questions going to the merits’ and a hardship
balance that tips sharply towards 11 the plaintiff[.]” *Alliance for Wild Rockies v. Cottrell*, 632 F.3d
1127, 1131-32 (9th Cir.

2011) 12 (explaining that the sliding scale approach has allowed a stronger showing of one
element to 13 offset a weaker showing of another element). Additionally, in cases brought by

prisoners 14 involving conditions of confinement, any preliminary injunction “must be narrowly drawn, 15 extend no further than necessary to correct the harm the court finds requires preliminary relief, 16 and be the least intrusive means necessary to correct the harm.” 18 U.S.C. § 3626(a)(2).

17 C. Analysis 18 A preliminary injunction is not warranted at this juncture because plaintiff fails to 19 demonstrate that either he is likely to succeed on the merits of his claims or serious questions 20 going to the merits. A motion for a preliminary injunction must be supported by “[e]vidence that 21 goes beyond the unverified allegations of the pleadings.” Fidelity Nat.

Title Ins. Co. v. Castle, 22 2011 WL 5882878, *3 (N.D. Cal. Nov. 23, 2011) (citing 9 Wright & Miller, Federal Practice & 23 Procedure § 2949 (2011)). Plaintiff, as the moving party, bears the burden of establishing the 24 merits of his claims. See Winter, 555 U.S. at 20. By separate order entered this same date, the 25 undersigned screened plaintiff’s complaint and concluded that it did not state a claim for relief 26 against any defendant.

As a result, plaintiff was granted leave to file an amended complaint. 27 Given the failure of his complaint to state a valid claim for relief, plaintiff has not shown a 28 likelihood of success on the merits to be entitled to a preliminary injunction. Additionally, 1 plaintiff offers no argument or evidence concerning the balance of equities, or public interest, and 2 offers only vague and outlandish statements about the alleged harm he faces based on his 3 complaints about eavesdropping.

For all these reasons, the undersigned recommends denying 4 plaintiff’s motion for a preliminary injunction. 5 II. Motions for a Guardian ad Litem 6 A. Plaintiff’s Motion 7 In a single page motion, plaintiff recounts the difficulties that he has faced in convincing 8 state officials to complete the in forma pauperis application. ECF No. 12. He requests the 9 appointment of a GAL because he was declared incompetent to stand trial in his pending state 10 criminal proceeding.

ECF No. 12. On October 29, 2024, plaintiff filed another motion for 11 appointment of a GAL indicating that his competency has still not been restored.¹ ECF No. 14. 12 B. Additional Information Relevant to Plaintiff’s Motion for a GAL 13 The court has reviewed plaintiff’s mental health records as well as the Yolo County 14 Superior Court docket in *People v. Bennett*, CR2023-0488 (Yolo County Superior Court).² The 15 Yolo County Superior Court docket indicates plaintiff has now been found competent to stand 16 trial.³ 17 C. Legal Standards 18 In a civil case, determinations of competency are governed by Federal Rule of Civil 19 Procedure 17.

Allen v. Calderon, 408 F.3d 1150, 1153 (9th Cir. 2005). Rule 17(c) states that 20 “[t]he court must appoint a guardian ad litem-or issue another appropriate order-to protect a 21 minor or incompetent person who is unrepresented in an action.” The Ninth Circuit has held a 22 party “is entitled to a Rule 17 competency determination when substantial evidence of 23 incompetence is presented.” *Allen*, 408 F.3d at 1153.

The decision whether to appoint a 24 1 Plaintiff's mental health records from the Monroe Detention Center were directed to be filed in 25 this case in order to assist the court in resolving these pending motions for a guardian ad litem. 26 See ECF No. 16. 2 The court may take judicial notice of state court dockets including those that are available on 27 the internet.

See *Porter v. Ollison*, 620 F.3d 952, 954-55 (9th Cir. 2010). 3 See Yolo County Superior Court Minute Order (May 21, 2025), available at 28 <https://tinyurl.com/m4xknayp>. 1 guardian ad litem is "left to the sound discretion the trial court." *Davis v. Walker*, 745 F.3d 1303, 2 1310 (9th Cir. 2014).

Although the procedure for determining competency is determined by 3 federal law, the substantive standard for competency is derived from state law. See *In re County 4 of Orange*, 784 F.3d 520, 523-24 (9th Cir. 2015); Fed. R. Civ. P. 17(b)(1).

Under California law, 5 a party is incompetent "if he or she lacks the capacity to understand the nature or consequences of 6 the proceeding, or is unable to assist counsel in the preparation of the case." *Golden Gate Way, 7 LLC v. Stewart*, Case No. 09-cv-04458 DMR, 2012 WL 4482053, at *2 (N.D. Cal. Sept. 28, 8 2012) (citing *In re Jessica G.*, 93 Cal. App. 4th 1180, 1186 (2001)).

Given that Plaintiff is 9 proceeding pro se, the question before this court is whether there is substantial evidence that 10 plaintiff is unable to understand the nature and consequences of these proceedings and is unable 11 to adequately litigate them on his own. 12 D. Analysis 13 After reviewing plaintiff's mental health records as well as the Yolo County Superior 14 Court docket in *People v. Bennett*, CR2023-0488 (Yolo County Superior Court), the undersigned 15 concludes that there is not a substantial question of plaintiff's current competence that would 16 require the appointment of a GAL.

Plaintiff requests a GAL in order to complete his IFP form 17 and based upon the state trial court's determination that he was incompetent to proceed to trial. 18 However, plaintiff successfully completed his IFP application in this court.

The Yolo County 19 Superior Court deemed Plaintiff competent to stand trial on May 21, 2025.4 As a result, the cited 20 bases to appoint a GAL are now moot. Based on the present record, the undersigned finds that 21 there is not a substantial question regarding plaintiff's competence to warrant appointing him a 22 guardian ad litem. His motions to appoint a guard ad litem should be denied.

23 III. Conclusion 24 Accordingly, IT IS HEREBY RECOMMENDED that: 25 1. Plaintiff's motion for a preliminary injunction (ECF Nos. 10) be denied. 26 2. Plaintiff's motions to appoint a guardian ad litem (ECF No. 12, 14) be denied. 27 4 See Yolo County Superior Court Minute Order (May 21, 2025), available at 28 <https://tinyurl.com/m4xknayp>.] These findings and

recommendations are submitted to the United States District Judge 2 || assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1).

Within twenty one days 3 || after being served with these findings and recommendations, any party may file written 4 || objections with the court and serve a copy on all parties. Such a document should be captioned 5 || “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the 6 || objections shall be filed and served within fourteen days after service of the objections.

The 7 || parties are advised that failure to file objections within the specified time may waive the right to 8 | appeal the District Court’s order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991). 9 | DATED: June 3, 2025 10 1]) 12 SEAN C. RIORDAN 3 UNITED STATES MAGISTRATE JUDGE 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28