

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

Phillips v. Kern County Sheriff's Department, et al.

No. 1:25-cv-00875-KES-CDB, United States District Court for the Eastern District of California (August 11, 2025)

SUMMARY

The United States District Court for the Eastern District of California grants Plaintiff Devon A. Phillips’s unopposed motion to amend the complaint and adopts the lodged first amended complaint as the operative pleading. The court sets responsive-pleading deadlines, denies the motion to lodge video evidence, denies the motion for a subpoena as moot, and directs the Clerk to update the docket.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	August 11, 2025
DOCKET	1:25-cv-00875-KES-CDB
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for leave to amend the complaint, to lodge video evidence, and for issuance of a subpoena. The parties also stipulated to an extension of time for responsive pleadings. The district court granted leave to amend, denied the motion to lodge evidence, denied the subpoena motion as moot, and set responsive-pleading deadlines.
PRECEDENTIAL VALUE	unpublished, nonprecedential district court order
PARTIES	Devon A. Phillips v. Kern County Sheriff's Department, Deputy Fisher, Deputy J. Perez

TOPICS

- motion to amend
- pleadings
- civil procedure
- section 1983
- civil rights

PRACTICE AREAS

- civil procedure
- civil rights litigation

QUESTIONS PRESENTED

1. Whether Phillips could amend the complaint as a matter of course under Federal Rule of Civil Procedure 15(a)(1).
2. Whether the court should permit Phillips to lodge video evidence before the litigation placed the evidence in issue.
3. Whether a subpoena was necessary to require represented defendants who had appeared through counsel to attend the mandatory scheduling conference.
4. What deadlines should apply to defendants' responsive pleadings after the amended complaint became operative.

HOLDINGS

1. Phillips was entitled to amend his complaint once as a matter of course because the amendment was filed within the time permitted by Rule 15(a)(1), and he had not previously amended the complaint. The lodged first amended complaint was therefore adopted as the operative complaint.
2. The motion to lodge video evidence was denied because Phillips identified no pending event or proceeding that placed the evidence in issue.
3. No subpoena was required because the individual defendants had waived service and appeared through counsel, and they were already required to attend the mandatory scheduling conference.
4. The Kern County Sheriff's Office was required to respond to the first amended complaint by August 25, 2025, and Fisher and Perez were required to respond by September 23, 2025.

KEY QUOTATIONS

“Rule 15(a) is very liberal” (at 2)

“the Court cannot serve “as a repository for the parties’ evidence.”” (at 3)

FACTUAL BACKGROUND

Phillips filed an action against the Kern County Sheriff's Office, Deputy Fisher, and Deputy J. Perez. The individual defendants waived service and appeared through counsel, while the Sheriff's Office was represented as having been served. Phillips sought to amend his complaint after defense counsel identified alleged deficiencies, sought to lodge video evidence before any evidentiary issue had arisen, and sought a subpoena requiring the individual defendants to attend a mandatory scheduling conference.

PROCEDURAL HISTORY

Phillips initiated the civil-rights action on July 17, 2025. After service or waiver of service by the individual defendants and service of the Kern County Sheriff's Office, Phillips moved for leave to file a first amended complaint. Defendants did not oppose amendment and jointly requested an extension of time to respond. The court adopted the lodged first amended complaint as operative, addressed the stipulated extension, denied the motion to lodge video evidence, denied the subpoena motion as moot, and directed the clerk to update the docket.

DISPOSITION

other

CASES CITED

- AmerisourceBergen Corp. v. Dialysist West, Inc., 465 F.3d 946, 951 (9th Cir. 2006)
- Chodos v. W. Publ'g Co., 292 F.3d 992, 1003 (9th Cir. 2002)
- Morongo Band of Mission Indians v. Rose, 893 F.2d 1074, 1079 (9th Cir. 1990)

OPINION

Phillips v. Kern County Sheriff Department

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 DEVON A. PHILLIPS, Case No. 1:25-cv-00875-KES-CDB 12 Plaintiff, ORDER
GRANTING PLAINTIFF'S

UNOPPOSED MOTION TO AMEND

13 v. COMPLAINT

14 KERN COUNTY SHERIFF'S (Docs. 11, 12)

DEPARTMENT, et al.,

15 ORDER ON STIPULATION TO EXTEND

Defendants. TIME TO FILE RESPONSIVE PLEADING 16 (Doc. 14) 17

ORDER DENYING MOTION TO LODGE

18 VIDEO EVIDENCE

19 (Doc. 13)

20 ORDER DENYING AS MOOT MOTION

FOR SUBPOENA

21 (Doc. 4) 22 Clerk of the Court to Adjust the Docket to 23 Reflect Operative First Amended
Complaint 24 25 On July 17, 2025, Plaintiff Devon A. Phillips initiated this action with the filing
of a 26 complaint against the Kern County's Sheriff's Office, Deputy Fisher, and Deputy J. Perez.
(Doc. 27 1). On July 21, 2025, Plaintiff filed a motion for subpoena. (Doc. 4). On August 7, 2025,
Plaintiff filed a motion for leave to amend the complaint (Doc. 11) and lodged a proposed first
amended 1 complaint with the Court (Doc. 12). That same day, Plaintiff filed a motion to lodge
video evidence 2 with the Court. (Doc. 13). On August 8, 2025, the parties filed a jointly executed
stipulated request 3 to extend the deadline for Defendant Kern County Sheriff's Office to file a
responsive pleading in 4 which Defendants indicate they do not oppose Plaintiff's motion to
amend the complaint. (Doc. 5 14). 6 The Court will address each filing in turn. 7 Motion for Leave

to Amend the Complaint 8 In the motion for leave to amend the complaint, Plaintiff asserts that he met and conferred 9 by telephone with counsel for Defendants on August 5, 2025, concerning his claims. Plaintiff states 10 that “defense counsel brought up some deficiencies that the defendants would like the plaintiff to 11 correct” and Plaintiff, thus, seeks leave to file his first amended complaint. (Doc. 11 at 2). It 12 appears Defendants do not oppose amendment. See (Doc. 14).

13 Rule 15 of the Federal Rules of Civil Procedure permits a plaintiff to amend the complaint 14 once as a matter of course no later than 21 days after service of the complaint or 21 days after 15 service of a responsive pleading or motion to dismiss, whichever is earlier. See Fed. R. Civ. P. 16 15(a)(1). After such time has passed or plaintiff has once amended their complaint, amendment 17 may only be by leave of the court or by written consent of the adverse parties. Fed. R. Civ. P. 18 15(a)(2). “Rule 15(a) is very liberal” and a court should freely give leave to amend when “justice 19 so requires.” *AmerisourceBergen Corp. v. Dialysist West, Inc.*, 465 F.3d 946, 951 (9th Cir. 2006); 20 see *Chodos v. W. Publ. Co.*, 292 F.3d 992, 1003 (9th Cir. 2002) (“it is generally our policy to permit 21 amendment with ‘extreme liberality’”) (quoting *Morongo Band of Mission Indians v. Rose*, 893 F.2d 1074, 1079 (9th Cir.1990)). 23 Here, the docket reflects waivers of service of process for individual Defendants executed 24 and filed on July 25, 2025, signed by counsel for Defendants Fisher and Perez. (Docs. 7, 8). 25 Additionally, Plaintiff filed summonses returned executed that same day. (Docs. 9, 10). Further, 26 counsel for Defendants represents that Defendant Kern County Sheriff’s Office was served on July 27 18, 2025. (Doc. 14 at 1). As Plaintiff filed the motion to amend and lodged his proposed first 1 complaint once as a matter of course. Plaintiff has not previously amended his complaint. Thus, 2 the Court will adopt the lodged first amended complaint (Doc. 12) as the operative complaint. 3 Stipulation to Extend Time for Defendant to File Responsive Pleading 4 On August 8, 2025, the parties filed a jointly executed stipulated request to extend the time 5 for Defendant Kern County Sheriff’s Office to file a responsive pleading to August 22, 2025. (Doc. 6 14). The parties represent that they agreed Plaintiff would file an amended complaint and, thus, 7 Plaintiff agreed to extend the responsive pleading deadline for Defendant Kern County Sheriff’s 8 Office to August 22, 2025. *Id.* at 2. 9 In light of the Plaintiff amending his complaint pursuant to Rule 15(a)(1)(A), Defendant 10 Kern County Sheriff’s Office shall file its responsive pleading no later than August 25, 2025. See 11 Fed. R. Civ. P. 15(a)(3). Defendants Fisher and Perez shall file their responsive pleadings no later 12 than September 23, 2025. (Doc. 14 at 2; see Docs. 7, 8). 13 Motion to Lodge Video Evidence 14 On August 7, 2025, Plaintiff filed a motion seeking to “submit thumb drives and other 15 supporting documents” to the Court that “will prove the complaint and claim ... as accurate and 16 factual.” (Doc. 13 at 2). Plaintiff provides no other grounds for the request to lodge evidence with 17 the Court. 18 Plaintiff is admonished that, as the Court advised in its Informational Order (Doc. 3-3), the 19 Court cannot serve “as a repository for the parties’ evidence.” It follows that Plaintiff “may not 20 file evidence with the Court until the course of litigation brings the evidence into question (for 21 example, on a motion for summary judgment, at trial, or when requested by the

Court).” Plaintiff 22 was warned that any “[e]vidence improperly submitted to the Court will be stricken and returned 23 to the party.” (Doc. 3-3 at 2) (emphasis omitted). 24 Plaintiff identifies no events that brings such evidence into question and the Court cannot 25 locate any. Thus, Plaintiff’s motion to lodge evidence (Doc. 13) will be denied. 26 Motion for Subpoena 27 On July 21, 2025, Plaintiff filed a motion seeking a subpoena for service on individual 1 | that the summons to appear is not a subpoena she will not accept the summons without the 2 | subpoena.” Plaintiff requests a subpoena to require Defendants appear at the October 14, 2025, 3 | scheduling conference, without being required to pay any subpoena appearance fee. (Doc. 4 at 2). 4 As the individual Defendants have filed waivers of service and have appeared in this action 5 | through counsel (Docs. 7, 8), they are required to appear at the mandatory scheduling conference. 6 | See (Doc. 3). As such, no subpoena is required. Thus, Plaintiff’s motion (Doc. 4) is DENIED as 7 | moot. 8 Conclusion and Order 9 For the foregoing reasons, IT IS HEREBY ORDERED that: 10 1. Plaintiff’s unopposed motion for leave to amend the complaint (Doc. 11) is GRANTED and 11 the proposed first amended complaint, lodged with the Court on August 7, 2025 (Doc. 12), 12 is deemed the operative complaint. 13 2. Defendant Kern County Sheriff’s Office SHALL FILE its responsive pleading to the first 14 amended complaint no later than August 25, 2025. See Fed. R. Civ. P. 15(a)(3). 15 3. Defendants Fisher and Perez SHALL FILE their responsive pleadings to the first amended 16 complaint no later than September 23, 2025. See id. 17 4. Plaintiff’s motion to lodge evidence (Doc. 13) is DENIED. 18 5. Plaintiff’s motion for subpoena (Doc. 4) is DENIED as moot. 19 6. The Clerk of the Court is DIRECTED to adjust the docket to reflect Plaintiff’s lodged 20 complaint (Doc. 12) as the operative first amended complaint. 21 | IT IS SO ORDERED. | Dated: _ August 11, 2025 | Word bo

23 UNITED STATES MAGISTRATE JUDGE

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