

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Eustice v. Colin

Eustice · No. 23-cv-00846-CRB (PR) · Decided March 3, 2023

OPINION

Eustice v. Colin

PER CURIAM.

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3 UNITED STATES DISTRICT COURT

4 NORTHERN DISTRICT OF CALIFORNIA

5 6 EDDIE EUSTICE, DTX028, Case No. 23-cv-00846-CRB (PR) 7 Plaintiff,

ORDER OF DISMISSAL

8 v. 9 ENRIQUE COLIN, Public Defender, 10 Defendant(s). 11 Plaintiff, a pretrial detainee at the Santa Clara County Jail facing state criminal proceedings 12 in Santa Clara County Superior Court, has filed a pro se complaint under 42 U.S.C. § 1983 13 alleging that his appointed public defender is incompetent. Plaintiff specifically takes issue with 14 his public defender’s decision to pursue plaintiff’s mental competency to stand trial rather than 15 obtain video evidence exonerating plaintiff. Plaintiff seeks \$1,000,000 in damages.

16 DISCUSSION

17 A. Standard of Review 18 Federal courts must engage in a preliminary screening of cases in which prisoners seek 19 redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 20 1915A(a). The court must identify cognizable claims or dismiss the complaint, or any portion of 21 the complaint, if the complaint “is frivolous, malicious, or fails to state a claim upon which relief 22 may be granted,” or “seeks monetary relief from a defendant who is immune from such relief.” Id. 23 § 1915A(b). Pro se pleadings must be liberally construed, however. *Balistreri v. Pacifica Police* 24 Dep’t, 901 F.2d 696, 699 (9th Cir. 1990). 25 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two elements: (1) that a 26 right secured by the Constitution or laws of the United States was violated, and (2) that the alleged 27 violation was committed by a person acting under the color of state law. *West v. Atkins*, 487 U.S.] B. Legal Claims 2 It is well established that a public defender does not act under the color of state law, an 3 essential element of an action under § 1983, when performing a lawyer’s traditional functions, 4 || such as entering pleas, making motions, objecting at trial, cross-examining witnesses, and making 5 closing arguments. See *Polk County v. Dodson*, 454 U.S. 312, 318-19 (1981). It matters not that 6 || the public defender failed to exercise independent judgment or that he was employed by a public 7 || agency; it is the nature and context of the function

performed by the public defender that is 8 determinative under Polk County. See *Miranda v. Clark County, Nevada*, 319 F.3d 465, 468 (9th Cir. 2003) (en banc). 10 Plaintiff's dissatisfaction with his public defender's defense of plaintiff is regrettable but 1] not actionable under § 1983. See *Polk County*, 545 U.S. at 318-19; *Miranda*, 319 F.3d at 468. 12 || The relief plaintiff seeks must be sought in the state courts via a malpractice action, if at all.

13 CONCLUSION

14 For the foregoing reasons, the complaint is DISMISSED under 28 U.S.C. § 1915A(b) for 3 15 failure to state a claim upon which relief may be granted. 16 IT IS SO ORDERED. i 17 Dated: March 3, 2023 18 x 5 —

CHARLES R. BREYER

19 United States District Judge 20 21 22 23 24 25 26 27 28