

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

**Carlos Martinez, a.k.a. Pedro Saucedo Calderon v. Secretary of
California Department of Corrections and Rehabilitation, et al.**

No. 1:22-cv-01170 JLT GSA (PC) (E.D. Cal. Aug. 1, 2025) · No. 1:22-cv-01170 JLT GSA (PC) · Decided
August 1, 2025

SUMMARY

The United States District Court for the Eastern District of California denied Carlos Martinez’s motion under Federal Rule of Civil Procedure 60(b) seeking relief from the determination that he was a three-strikes litigant under 28 U.S.C. § 1915(g). The court held that two prior dismissals, Martinez I and Martinez II, qualified as strikes because the cases were dismissed for failure to state a claim, and that the plaintiff had not shown grounds for reconsideration. The court ordered the plaintiff to pay the filing fee in full within 30 days or voluntarily dismiss the action.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 CARLOS MARTINEZ, A.K.A. PEDRO No. 1:22-cv-01170 JLT GSA (PC)
SAUCEDO CALDERON, 12 ORDER DENYING PLAINTIFF’S MOTION Plaintiff, FOR
RELIEF FROM JUDGMENT 13 v. (Doc. 36) 14 SECRETARY OF CALIFORNIA PLAINTIFF’S
PAYMENT OF THE FILING 15 DEPARMENT OF CORRECTIONS AND FEE IN FULL OR,
IN THE ALTERNATIVE, REHABILITATION, et al., HIS VOLUNTARY DISMISSAL OF THIS
16 CASE, DUE IN THIRTY DAYS Defendants.

17 18 19 I. INTRODUCTION 20 Plaintiff, a state prisoner proceeding pro se, has filed this civil
rights action seeking relief 21 under 42 U.S.C. § 1983. The matter was referred to a United States
Magistrate Judge pursuant to 22 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On February 21, 2025, the Court revoked 23 Plaintiff’s in forma pauperis status after determining
that he is a “three-strikes” litigant within the 24 meaning of 28 U.S.C. § 1915(g). (See Docs. 33,
35.) 25 Before this Court is Plaintiff’s motion for relief pursuant to Federal Rule of Civil 26
Procedure 60(b) from the determination that he is a three strikes litigant.

(Doc. 36.) The Court 27 also considers the substantive content of Plaintiff’s motion for leave to
file supplemental 28 pleadings. (See Doc. 37.) 1 For the reasons stated below, Plaintiff’s motion is
DENIED, and Plaintiff is again 2 ORDERED to pay the filing fee in full within 30 days prior to
proceeding any further in this 3 action. Plaintiff is also reminded that in the alternative, he may
voluntarily dismiss this 4 matter pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i).

5 II. RELEVANT PROCEDURAL HISTORY 6 On September 19, 2022, Plaintiff was granted in forma pauperis status. (Doc. 6.) On 7 December 17, 2024, after determining that Plaintiff was a three strikes litigant within the meaning 8 of 28 U.S.C. § 1915(g), the assigned magistrate judge ordered Plaintiff to show cause why his in 9 forma pauperis status should not be revoked and why he should not instead be required to pay the 10 filing fee in full prior to proceeding with this case.

(Doc. 29.) 11 On January 22, 2025, Plaintiff responded to the order to show cause. (Doc. 31.) After 12 considering that response, the magistrate judge recommended that Plaintiff's in forma pauperis 13 status be revoked and that he be required to pay the filing fee in full. (See Doc. 33.)

On February 14 21, 2025, this Court adopted the findings and recommendations in full, revoked Plaintiff's in 15 forma pauperis status, and directed Plaintiff to pay the filing fee in full within 30 days. (Id. at 10.) 16 On March 3, 2025, Plaintiff moved for relief from the Court's February 21, 2025 order. 17 (See Doc. 36.) Subsequently, the magistrate judge granted (Doc.

38) Plaintiff's March 28, 2025 18 request that the Court consider additional information. (See Doc. 37.) 19 III. PLAINTIFF'S MOTION FOR RELIEF AND SUPPLEMENTAL PLEADING 20 A. Plaintiff's Motion for Relief from Judgment 21 In his request for relief from judgment, Plaintiff generally contends that two of the case 22 dismissals the Court determined are strikes—Martinez v. California Department of Corrections 23 and Rehabilitation, No. 2:08-cv-01488 (C.D.

Cal. Mar. 28, 2008) ("Martinez I"), and Martinez v. 24 Director, California Department of Corrections and Rehabilitation, No. 2:09-cv-07155 UA AJW 25 (C.D. Cal. Oct. 14, 2009) ("Martinez II"), were not his cases. (See generally Doc. 36 at 1-3.)

As a 26 result, Plaintiff argues he is entitled to relief under Rules 60(b)(1), (4), (6) and (d)(1). (Id. at 3-4.) 27 B. Plaintiff's March 28, 2025 Filing 28 In Plaintiff's March 28, 2025 filing, Plaintiff retracts his assertion that Martinez I and 1 Martinez II are not his cases. (See generally Doc. 37 at 1-4.)

However, despite having 2 acknowledged that the two cases were, in fact, filed by him, Plaintiff argues that because both 3 matters relate to the reduction and/or assessment of his classification points, they are "related," 4 and as such, they should only be considered one strike under Section 1915(g). (See id. at 3-4.) 5 Plaintiff, however, provides no case law, statutes, or federal rules in support of this argument.

6 (See generally id.) 7 Plaintiff further claims that "the first case"¹ was dismissed for lack of jurisdiction. (See 8 Doc. 37 at 4.) He also makes a convoluted argument that one of his strike cases was dismissed 9 "because the C.D. Cal. Could not grant relief due to the immunity of the Cal. Dep't. of 10 Corrections and Rehabilitation from lawsuits in its official capacity."² Id. 11 IV.

APPLICABLE LAW 12 Federal Rule of Civil Procedure 60(b) provides for reconsideration of a final judgment or 13 any order where one of more of the following is shown: (1) mistake, inadvertence, surprise, or 14 excusable neglect; (2) newly discovered evidence which, with reasonable diligence, could not 15 have been discovered within twenty-eight days of entry of judgment; (3) fraud, misrepresentation, 16 or misconduct of an opposing party; (4) voiding of the judgment; (5) satisfaction of the judgment; 17 and (6) any other reason justifying relief. “Motions for relief from judgment pursuant to Rule 18 60(b) of the Federal Rules of Civil Procedure are addressed to the sound discretion of the district 19 court.” *Allmerica Financial Life Insurance and Annuity Company v. Llewellyn*, 139 F.3d 664, 665 20 (9th Cir.

1997). 21 V. DISCUSSION 22 Plaintiff’s motion for reconsideration is without merit. First, he provides no legal or 23 factual support for his argument that because Martinez I and Martinez II both dealt with the issue 24 25 1 It is unclear to which of Plaintiff’s three strike cases he is referring. 2 In the supplemental pleading, Plaintiff also appears to ask the Court to send him copies of the orders that 26 “dismiss[ed] the two strikes and give time to [him] to file a supportable defense” should the Court deny his motion for reconsideration.

(See generally Doc. 36 at 5 (brackets added).) The magistrate judge has properly denied 27 Plaintiff’s request. It is Plaintiff’s responsibility to keep copies of documents in his cases. If Plaintiff still wishes to have copies of the dispositive orders in Martinez I and Martinez II sent to him for his own personal records, he is free 28 to contact the Clerk’s Office and send it the appropriate payment for those orders to be copied and sent to him.

1 of Plaintiff’s classification status, the dismissal of the cases counts as only one strike. Second, 2 Plaintiff’s claim that Martinez I and/or Martinez II were dismissed for other reasons and not 3 because they failed to state a claim upon which relief could be granted, is clearly disproven by the 4 record.

The dispositive order in Martinez I clearly states that Plaintiff’s application to proceed in 5 forma pauperis was denied because the Court found – in a detailed factual statement – that the 6 sole Defendant, the California Department of Corrections and Rehabilitation, was immune from 7 suit under the Eleventh Amendment, and that as a result, Martinez I failed to state a claim upon 8 which relief could be granted.

See Martinez I, Doc. 3. 9 In *O’Neal v. Price*, 531 F.3d 1146 (9th Cir. 2008), the Ninth Circuit clearly stated, “[T]he 10 district court has ‘dismissed’ the prisoner’s case for purposes of [Section] 1915(g) when the Court 11 denies the prisoner’s application to file without prepayment of the filing fee on the ground that 12 the complaint is frivolous, malicious or fails to state a claim, and thereupon terminates that 13 complaint.” *Id.* at 1152 (brackets added); see also *El-Shaddai v. Zamora*, 833 F.3d 1036, 1042 14 (9th Cir.

2016). 15 This is precisely what happened in Martinez I. See Martinez I, Doc. 3 (denial of in forma 16 pauperis status due to failure to state a claim upon which relief may be granted, and dismissal of 17 case). This is also what happened in Martinez II. See Martinez II, Doc. 2 (same).

For these 18 reasons, Martinez I and Martinez II are both strikes. Therefore, when they are considered along 19 with Martinez v. San Juan, No. 1:21-cv-00146 DAD EPG (E.D. Cal. June 10, 2021) (“Martinez 20 III”), which Plaintiff agrees was a strike (see Doc. 36 at 2) and which was clearly dismissed for 21 failure to state a claim (see Martinez III, Doc. 10 at 13), Plaintiff has not shown pursuant to Rule 22 60(b) that the Court made a mistake when it found that Plaintiff is a three strikes litigant within 23 the meaning of 28 U.S.C. § 1915(g).

24 For these reasons, Plaintiff’s motion for reconsideration must be denied, and Plaintiff, as a 25 three strikes litigant, must pay the filing fee in full prior to proceeding any further with this 26 matter. As an alternative to paying the filing fee and proceeding with this case, Plaintiff is 27 reminded that he may voluntarily dismiss this matter, pursuant to Federal Rule of Civil Procedure 28 41(a)(1)(A)(i).

Plaintiff will be given thirty days to take either course of action. Accordingly, the 1 | Court ORDERS: 2 1. Plaintiff’s motion for relief from judgment pursuant to Federal Rule of Civil 3 || Procedure 60 (Doc. 36) is DENIED. 4 2.

As three strikes litigant within the meaning of 28 U.S.C. § 1915(g), Plaintiff must 5 | PAY the filing fee IN FULL before proceeding any further in this action. 6 3. As an ALTERNATIVE, Plaintiff may VOLUNTARILY DISMISS this matter 7 | pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). 8 4. Plaintiff will be given thirty days to take either course of action.

9 10 IT IS SO ORDERED. 11 | Dated: _ August 1, 2025 Cerin | Tower TED STATES DISTRICT JUDGE 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28