

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Coelho v. Alvarado-Gil

Coelho · No. 2:24-cv-2181-DC-JDP (PS) · Decided May 20, 2025

SUMMARY

The document contains findings and recommendations by a United States magistrate judge regarding Kelley Coelho’s motion for a temporary restraining order against Marie Alvarado-Gil and others. It recommends denying the motion because plaintiff did not demonstrate required notice, delayed seeking relief, and sought injunctive relief unrelated to the conduct alleged in the complaint. The document advises the parties regarding the procedure and deadline for filing objections.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jeremy D. Peterson
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	May 20, 2025
DOCKET	2:24-cv-2181-DC-JDP (PS)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for a temporary restraining order in a civil-rights action. The magistrate judge issued findings and recommendations recommending denial of the motion, subject to review by the assigned district judge.
STANDARD OF REVIEW	Temporary restraining orders are governed by standards substantially similar to those governing preliminary injunctions. Relief requires likelihood of success on the merits, likelihood of irreparable harm absent relief, a favorable balance of equities, and consistency with the public interest. An ex parte temporary restraining order additionally requires strict compliance with Federal Rule of Civil Procedure 65(b) and applicable local rules.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- injunctions
- civil procedure
- first amendment
- civil rights
- section 1983

PRACTICE AREAS

civil procedure

civil rights

constitutional law

equitable relief

QUESTIONS PRESENTED

1. Whether plaintiff was entitled to a temporary restraining order without demonstrating compliance with the notice requirements of Federal Rule of Civil Procedure 65 and Local Rule 231.
2. Whether plaintiff's nearly nine-month delay in seeking emergency injunctive relief defeated the asserted immediacy of the alleged injury.
3. Whether the requested temporary restraining order was sufficiently related to the conduct alleged in the underlying complaint to fall within the court's authority to grant preliminary injunctive relief.

HOLDINGS

1. A temporary restraining order should be denied when the movant fails to demonstrate compliance with the notice requirements of Federal Rule of Civil Procedure 65 and Local Rule 231.
2. Unreasonable delay in seeking a temporary restraining order supports denial of the motion because the delay undermines the claim that immediate emergency relief is necessary.
3. A temporary restraining order may not address conduct entirely unrelated to the conduct alleged in the underlying complaint; absent a sufficient nexus, the court lacks authority to grant the requested relief.

KEY QUOTATIONS

“To obtain injunctive relief, plaintiff must show (1) likelihood of success on the merits; (2) likelihood of irreparable harm in the absence of preliminary relief; (3) that the balance of equities tips in her favor; and (4) that an injunction is in the public interest.” (at 2)

“Thus, “there must be a relationship between the injury claimed in the motion for injunctive relief and the conduct asserted in the underlying complaint.”” (at 4)

FACTUAL BACKGROUND

Plaintiff alleged that she and another person were escorted from the press area during a June 2024 Turlock Police Department press conference concerning the release of two sexually violent predators. She claimed that the removal violated her First, Fourth, Ninth, and Fourteenth Amendment rights. In seeking a temporary restraining order, plaintiff instead relied on alleged political harassment, retaliation, intimidation, reputational attacks, and interference with her family's education and safety.

PROCEDURAL HISTORY

Plaintiff filed a civil-rights complaint concerning her removal from a police-department press conference and later filed a first amended complaint. Nearly nine months after filing the original complaint, she moved for a temporary restraining order based on alleged harassment, retaliation, intimidation, and interference involving her and her family. The magistrate judge recommended denial because plaintiff had not shown the notice required by

Federal Rule of Civil Procedure 65 and Local Rule 231, had delayed unreasonably, and sought relief unrelated to the conduct alleged in the complaint.

DISPOSITION

other

CASES CITED

- Winter v. Natural Res. Def. Council, Inc., 555 U.S. 7, 20, 24 (2008)
- Washington v. Trump, 847 F.3d 1151, 1159 n.3 (9th Cir. 2017)
- Garcia v. Google, Inc., 786 F.3d 733, 740 (9th Cir. 2015)
- Brewer v. Loancare, LLC, No. 2:25-CV-01157-DC-CSK (PS), 2025 WL 1400288, at *2 (E.D. Cal. May 14, 2025)
- Reno Air Racing Ass'n, Inc. v. McCord, 452 F.3d 1126, 1131 (9th Cir. 2006)
- Abdel-Malak v. Doe, No. 5:20-cv-00322-CJC-KK, 2020 WL 5775818, at *1 (C.D. Cal. Feb. 20, 2020)
- Tri-Valley CAREs v. U.S. Dep't of Energy, 671 F.3d 1113, 1131 (9th Cir. 2012)
- Occupy Sacramento v. City of Sacramento, No. 2:11-cv-2873-MCE, 2011 WL 5374748, at *4 (E.D. Cal. Nov. 4, 2011)
- Farmers Ins. Exch. v. Steele Ins. Agency, Inc., No. 2:13-cv-0784-MCE, 2013 WL 1819988, at *7 (E.D. Cal. Apr. 30, 2013)
- Pac. Radiation Oncology, LLC v. Queen's Med. Ctr., 810 F.3d 631, 636 (9th Cir. 2015)
- De Beers Consol. Mines v. United States, 325 U.S. 212, 220 (1945)
- Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998)
- Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 KELLEY COELHO, Case No. 2:24-cv-2181-DC-JDP (PS) 12 Plaintiff, 13 v.
FINDINGS AND RECOMMENDATIONS 14 MARIE ALVARADO-GIL, et al. 15 Defendants.
16 17 Plaintiff has filed a motion for temporary restraining order.

For the reasons discussed 18 below, I recommend that plaintiff’s motion be denied.1 19
Background 20 Plaintiff brings this civil rights complaint against State Senator Marie Alvarado-
Gil and 21 her Chief of Staff Vanessa Bravo. ECF No. 16.

In the first amended complaint, plaintiff alleges 22 that she attended Turlock Police Department’s
June 2024 press conference about the release of 23 two sexually violent predators. Id. at 2, 7, 14.
Plaintiff and another individual were escorted out 24 of the press area during a press conference
without cause. Id. Plaintiff claims that defendants’ 25 actions violated her First, Fourth, Ninth, and
Fourteenth Amendment rights.

Id. at 5-6. Plaintiff argues in her request for temporary injunctive relief that she has experienced 1 retaliation and harassment, including: 2 Public statements and social media posts from individuals believed to be politically aligned with Defendant, attacking Plaintiff's 3 reputation and credibility.

4 Efforts to intimidate Plaintiff's supporters and associates, discouraging them from engaging with Plaintiff's campaign or 5 business. 6 Coordinated interference with Plaintiff's child's education and safety by community members and school officials allegedly 7 connected to Defendant. 8 ECF No. 34 at 2. Plaintiff also states that her daughter has been subjected to "bullying, targeting, 9 and retaliation in her educational environment, allegedly instigated or encouraged by individuals 10 politically or personally aligned with Defendant." Id. Plaintiff further argues that defendants 11 have engaged in "political collusion and misuse of influence" and "emotional and professional 12 harm." Id. at 2-3.

13 Plaintiff seeks by way of relief and order prohibiting defendant and her agents from: 14 Engaging in further harassment, retaliation, or intimidation of Plaintiff and her family. 15 Making public or private statements intended to harm Plaintiff's 16 reputation or safety. 17 Contacting Plaintiff directly or indirectly. 18 Id. at 5. 19 Legal Standards 20 A temporary restraining order, as with any preliminary injunctive relief, is an 21 extraordinary remedy that is never awarded as of right.

See *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008). The standards that govern temporary restraining orders are 23 "substantially similar" to those that govern preliminary injunctions. *Washington v. Trump*, 847 F.3d 1151, 1159 n.3 (9th Cir. 2017).

To obtain injunctive relief, plaintiff must show 25 (1) likelihood of success on the merits; (2) likelihood of irreparable harm in the absence of 26 preliminary relief; (3) that the balance of equities tips in her favor; and (4) that an injunction is in 27 the public interest. *Winter*, 555 U.S. at 20. "The first factor under *Winter* is the most important— 28 likely success on the merits." *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir.

2015). 1 Federal Rule of Civil Procedure 65(b) provides that: 2 (a)(1) Notice. The court may issue a preliminary injunction only on notice to the adverse party. 3 4 (b)(1) Issuing Without Notice. The court may issue a temporary 5 restraining order without written or oral notice to the adverse party or its attorney only if: 6 (A) specific facts in an affidavit or a verified complaint clearly 7 show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in 8 opposition; and 9 (B) the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

10 11 In addition, this court's Local Rules impose specific requirements for the issuance of a 12 temporary restraining order. Local Rule 231 requires "actual notice to the affected party and/or 13

counsel” except in “the most extraordinary of circumstances.” Local Rule 231(a). “Appropriate 14 notice would inform the affected party and/or counsel of the intention to seek a temporary 15 restraining order, the date and time for hearing to be requested of the Court, and the nature of the 16 relief to be requested.” *Id.* Further, Local Rule 231 requires the court to consider “whether the 17 applicant could have sought relief by motion for preliminary injunction at an earlier date without 18 the necessity for seeking last-minute relief by motion for temporary restraining order.” Local 19 Rule 231(b).

If the court finds that there was undue delay in seeking injunctive relief, the court 20 may deny the requested temporary restraining order on those grounds. *Id.* 21 Denial of plaintiff’s motion is appropriate on procedural grounds. Plaintiff has not 22 demonstrated that she provided notice to defendants, as required by the Federal Rules of Civil 23 Procedure and the court’s Local Rules. “Courts regularly deny temporary restraining orders 24 where movants fail to comply with procedural requirements, including where the movants are pro 25 se plaintiffs.” *Brewer v. Loancare, LLC*, No. 2:25-CV-01157-DC-CSK (PS), 2025 WL 1400288, 26 at *2 (E.D.

Cal. May 14, 2025); see *Reno Air Racing Ass’n, Inc. v. McCord*, 452 F.3d 1126, 1131 27 (9th Cir. 2006) (discussing Federal Rule of Civil Procedure 65 and noting that “courts have 28 recognized very few circumstances justifying the issuance of an ex parte [temporary restraining 1 order]”); *Abdel-Malak v. Doe*, No. 5:20-cv-00322-CJC-KK, 2020 WL 5775818, at *1 (C.D.

Cal. 2 Feb. 20, 2020) (denying temporary restraining order sought by a pro se plaintiff for failure to 3 satisfy Rule 65(b)’s “strict requirements”); *Tri-Valley CAREs v. U.S. Dep’t of Energy*, 671 F.3d 4 1113, 1131 (9th Cir. 2012) (“Denial of a motion as the result of a failure to comply with local 5 rules is well within a district court’s discretion.”). 6 Apart from the notice issue, the motion suffers from unreasonable delay.

Plaintiff waited 7 nearly nine months after the filing of her original complaint to move for a temporary restraining 8 order, further demonstrating that the injury alleged is not so immediate as to justify an ex parte 9 temporary restraining order. Plaintiff has had sufficient time to seek “relief by motion for 10 preliminary injunction at an earlier date without the necessity for seeking last minute relief by 11 motion for temporary restraining order.” Local Rule 231(b); see *Occupy Sacramento v. City of 12 Sacramento*, 2:11-cv-2873-MCE, 2011 WL 5374748, at *4 (E.D.

Cal. Nov. 4, 2011) (denying an 13 application for a temporary restraining order due to twenty-five-day delay in seeking that relief); 14 *Farmers Ins. Exch. v. Steele Ins. Agency, Inc.*, No. 2:13-cv-0784-MCE, 2013 WL 1819988, at *7 15 (E.D. Cal. Apr. 30, 2013) (denying an application for a temporary restraining order due to a six- 16 month delay in seeking that relief).

17 Plaintiff’s motion is also substantively defective. A temporary restraining order “is 18 appropriate when it grants relief of the same nature as that to be finally granted.” *Pac. Radiation 19*

Oncology, LLC v. Queen's Med. Ctr., 810 F.3d 631, 636 (9th Cir. 2015) (citing De Beers Consol. 20 Mines v. United States, 325 U.S. 212, 220 (1945)). While new allegations of misconduct may 21 support additional claims against a defendant, "they do not support preliminary injunctions [or 22 temporary restraining orders] entirely unrelated to the conduct asserted in the underlying 23 complaint." Id. (citing De Beers Consol.

Mines, 325 U.S. at 220) (alteration added). Thus, "there 24 must be a relationship between the injury claimed in the motion for injunctive relief and the 25 conduct asserted in the underlying complaint." Id. This relationship is sufficiently strong if the 26 temporary relief sought "would grant 'relief of the same character as that which may be granted 27 finally.'" Id. (quoting De Beers Consol.

Mines, 325 U.S. at 220). Absent this nexus, the court 28 "lacks authority to grant the relief requested." Id. 1 The crux of plaintiff's first amended complaint is that her removal from the press area at 2 | then June press conference violated her First, Fourth, Ninth, and Fourteenth Amendment rights. 3 | contrast, here, plaintiff argues that defendant and others affiliated with her are harassing and 4 | intimidating plaintiff and her family.

While I make no determinations on the sufficiency of those 5 | allegations, they are too far removed from the allegations in first amended complaint to warrant 6 || temporary injunctive relief. Accordingly, the court "lacks authority to grant the relief requested," 7 | Pac. Radiation Oncology, 810 F.3d at 636, and I will recommend that plaintiff's motion for 8 || temporary restraining order be denied.

9 Accordingly, it is hereby RECOMMENDED that plaintiff's motion for injunctive relief, 10 | ECF No. 34, be DENIED. 11 These findings and recommendations are submitted to the United States District Judge 12 | assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(). Within fourteen days of 13 | service of these findings and recommendations, any party may file written objections with the 14 | court and serve a copy on all parties.

Any such document should be captioned "Objections to 15 | Magistrate Judge's Findings and Recommendations," and any response shall be served and filed 16 | within fourteen days of service of the objections. The parties are advised that failure to file 17 | objections within the specified time may waive the right to appeal the District Court's order. See 18 | Turner v. Duncan, 158 F.3d 449, 455 (9th Cir.

1998); Martinez v. Yist, 951 F.2d 1153 (9th Cir. 19 | 1991). 20 | Ir Is SO ORDERED. 21 22 | Dated: _ May 20, 2025 ssn (oto. ya 53 JEREMY D. PETERSON UNITED STATES MAGISTRATE JUDGE 24 25 26 27 28

