

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

OPINION

(PS) Coelho v. Alvarado-Gil

PER CURIAM.

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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. 26 Plaintiff argues in her request for temporary
injunctive relief that she has experienced 27 28 1 The district judge referred this motion to the
undersigned. ECF No. 35. 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, 22 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 24 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)(c). 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 | It is SO ORDERED. 21 22 | Dated: _ May 20, 2025 ssn (oto. ya

53 JEREMY D. PETERSON

UNITED STATES MAGISTRATE JUDGE

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