

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Suresh Eswaran v. Gavin Newsom, et al.

Eswaran v. Newsom · No. 2:25-cv-1003-TLN-JDP (PS) · Decided May 16, 2025

SUMMARY

The Eastern District of California screened Suresh Eswaran’s amended complaint alleging that California officials violated his First Amendment and due process rights after a proposed prisoner-rehabilitation program was not adopted. The court held that the allegations did not establish a protected property interest, a viable First Amendment retaliation or censorship claim, or sufficiently connected claims concerning lost business opportunities and law-enforcement conduct. The amended complaint was dismissed with leave to amend, giving plaintiff one final opportunity to file a second amended complaint or voluntarily dismiss the action.

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 16, 2025
DOCKET	2:25-cv-1003-TLN-JDP (PS)
DISPOSITION	dismissed
PROCEDURAL POSTURE	The court screened plaintiff's amended complaint under 28 U.S.C. § 1915(e) and dismissed it for failure to state a cognizable claim, granting leave to amend one final time.
STANDARD OF REVIEW	Under 28 U.S.C. § 1915(e), the court must screen an in forma pauperis complaint and dismiss claims that are frivolous, malicious, fail to state a claim, or seek monetary relief from an immune defendant. The complaint must satisfy Federal Rule of Civil Procedure 8(a)(2) and allege enough facts to state a plausible claim for relief under Bell Atlantic Corp. v. Twombly and Ashcroft v. Iqbal. Pro se pleadings are construed liberally, but the court may not supply essential elements that were not pleaded.
PRECEDENTIAL VALUE	unpublished

TOPICS

pleadings

civil procedure

free speech

due process

PRACTICE AREAS

Civil procedure

Civil rights

Constitutional law

QUESTIONS PRESENTED

1. Whether the amended complaint stated a due process or substantive due process claim based on the failure to finalize or adopt the proposed state contract.
2. Whether the alleged muting of plaintiff's microphone and other alleged conduct stated a First Amendment retaliation or censorship claim.
3. Whether plaintiff's allegations concerning lost business opportunities, reluctant podcast guests, and a law-enforcement visit were sufficiently specific and connected to state a cognizable constitutional claim.

HOLDINGS

1. The amended complaint did not state a cognizable due process or substantive due process claim because the proposed contract was never signed or finalized and the program was never adopted; therefore, plaintiff did not adequately allege a deprivation of life, liberty, property, or federally entitled process.
2. The amended complaint failed to state a First Amendment retaliation claim because it did not adequately allege injury in fact, a sufficient causal connection between the complained-of conduct and the injury, and a likelihood that the injury would be redressed by a favorable decision.
3. The allegations concerning lost business opportunities, reluctant podcast guests, and a visit to plaintiff's family home by law-enforcement officers were too vague and insufficiently connected to plaintiff's other claims to survive screening.

KEY QUOTATIONS

"The plausibility standard does not require detailed allegations, but legal conclusions do not suffice." (at 1)

"To establish a substantive due process claim, a plaintiff must, as a threshold matter, show a government deprivation of life, liberty, or property." (at 2)

"To succeed on a First Amendment retaliation claim, plaintiff must show "(1) an injury in fact, (2) a sufficient causal connection between the injury and the conduct complained of, and (3) a likelihood that the injury will be redressed by a favorable decision."" (at 2)

FACTUAL BACKGROUND

Plaintiff alleged that he designed a prisoner-rehabilitation program and negotiated with California Department of Corrections and Rehabilitation leadership beginning in November 2021. Although he claimed that the parties

reached a mutually explicit understanding, the contract was never signed, and the program was not adopted after Governor Newsom replaced the CDCR leaders involved in the negotiations. Plaintiff also alleged that defendants muted his microphone during public comments before the state personnel board, that business and podcast opportunities later fell through, and that California Highway Patrol officers visited his family home to influence him through his parents.

PROCEDURAL HISTORY

Plaintiff filed an amended pro se complaint alleging that defendants violated his First Amendment and due process rights after a proposed state contract was not finalized and after alleged interference with his speech and business opportunities. On screening, the court found that the amended complaint failed to state a cognizable constitutional claim. The court dismissed the amended complaint with leave to file a second amended complaint or voluntarily dismiss the action within thirty days.

DISPOSITION

dismissed

CASES CITED

- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678-79 (2009)
- Kobold v. Good Samaritan Reg’l Med. Ctr., 832 F.3d 1024, 1038 (9th Cir. 2016)
- Nagrampa v. MailCoups, Inc., 469 F.3d 1257, 1264 n.2 (9th Cir. 2006) (en banc)
- Haines v. Kerner, 404 U.S. 519, 520 (1972) (per curiam)
- Hayes v. Idaho Corr. Ctr., 849 F.3d 1204, 1208 (9th Cir. 2017)
- Bruns v. Nat’l Credit Union Admin., 122 F.3d 1251, 1257 (9th Cir. 1997)
- Ivey v. Bd. of Regents, 673 F.2d 266, 268 (9th Cir. 1982)
- Nunez v. City of Los Angeles, 147 F.3d 867, 871 (9th Cir.)
- Twitter, Inc. v. Paxton, 56 F.4th 1170, 1174 (9th Cir. 2022)

OPINION

(PS) Eswaran v. Newsom

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 SURESH ESWARAN, Case No. 2:25-cv-1003-TLN-JDP (PS) 12 Plaintiff, 13 v. ORDER 14
GAVIN NEWSOM, et al., 15 Defendants. 16 17 Suresh Eswaran (“plaintiff”) alleges that
defendants violated his free speech and due 18 process rights after he was denied a state contract.
ECF No. 5 at 2-3. I find that the amended 19 complaint fails to state a cognizable claim. I will

dismiss it and offer plaintiff one final 20 opportunity to amend. 21 Screening and Pleading Requirements 22 A federal court must screen the complaint of any claimant seeking permission to proceed 23 in forma pauperis. See 28 U.S.C. § 1915(e). The court must identify any cognizable claims and 24 dismiss any portion of the complaint that is frivolous or malicious, fails to state a claim upon 25 which relief may be granted, or seeks monetary relief from a defendant who is immune from such 26 relief. *Id.* 27 A complaint must contain a short and plain statement that plaintiff is entitled to relief, 28 Fed. R. Civ. P. 8(a)(2), and provide “enough facts to state a claim to relief that is plausible on its 1 face,” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The plausibility standard does not 2 require detailed allegations, but legal conclusions do not suffice. See *Ashcroft v. Iqbal*, 556 U.S. 3 662, 678 (2009). If the allegations “do not permit the court to infer more than the mere 4 possibility of misconduct,” the complaint states no claim. *Id.* at 679. The complaint need not 5 identify “a precise legal theory.” *Kobold v. Good Samaritan Reg’l Med. Ctr.*, 832 F.3d 1024, 6 1038 (9th Cir. 2016). Instead, what plaintiff must state is a “claim”—a set of “allegations that 7 give rise to an enforceable right to relief.” *Nagrampa v. MailCoups, Inc.*, 469 F.3d 1257, 1264 8 n.2 (9th Cir. 2006) (en banc) (citations omitted). 9 The court must construe a pro se litigant’s complaint liberally. See *Haines v. Kerner*, 404 10 U.S. 519, 520 (1972) (per curiam). The court may dismiss a pro se litigant’s complaint “if it 11 appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which 12 would entitle him to relief.” *Hayes v. Idaho Corr. Ctr.*, 849 F.3d 1204, 1208 (9th Cir. 2017). 13 However, ““a liberal interpretation of a civil rights complaint may not supply essential elements 14 of the claim that were not initially pled.”” *Bruns v. Nat’l Credit Union Admin.*, 122 F.3d 1251, 15 1257 (9th Cir. 1997) (quoting *Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982)). 16 Analysis 17 Plaintiff alleges that he designed a rehabilitation program for prisoners and, beginning in 18 November 2021, engaged in negotiations with leadership at the California Department of 19 Corrections and Rehabilitation (“CDCR”). ECF No. 5 at 3-4. He claims that he reached “a 20 mutually explicit understanding” with CDCR leadership, but that the contract was never signed. 21 *Id.* at 4. Before the contract was signed and finalized, Governor Newsom removed CDCR leaders 22 with whom plaintiff had negotiated because of a data breach. *Id.* Plaintiff’s program went 23 unadopted after the leadership change. *Id.* 24 In July and August 2023, plaintiff appeared before the state personnel board to advocate 25 for his program. He alleges that defendants Radcliffe and Westly cut his microphone to prevent 26 him from speaking during a public comment period. *Id.* at 5. He vaguely alleges that other 27 business and media opportunities, including an appearance by a guest on his podcast, fell through 28 in 2024. *Id.* Finally, he alleges that California Highway Patrol officers visited his family’s home 1 and attempted to “negatively influence” him through his parents. *Id.* 2 These allegations do not give rise to constitutional claims. Whatever positive signals may 3 have been given during negotiations, plaintiff’s program was never actually adopted and the 4 state’s decision to pursue a different program did not deprive him of any property or federally 5

entitled process. *Nunez v. City of Los Angeles*, 147 F.3d 867, 871 (9th Cir. 1998) (“To establish a
6 substantive due process claim, a plaintiff must, as a threshold matter, show a government 7
deprivation of life, liberty, or property.”). And plaintiff’s First Amendment claims also fail. To 8
succeed on a First Amendment retaliation claim, plaintiff must show “(1) an injury in fact, (2) a 9
sufficient causal connection between the injury and the conduct complained of, and (3) a 10
likelihood that the injury will be redressed by a favorable decision.” *Twitter, Inc. v. Paxton*, 56 11
F.4th 1170, 1174 (9th Cir. 2022). His allegations do not make this showing. The muting of 12
plaintiff’s microphone taken as true and standing alone, does not show that he was prevented 13
from advocating for his position in front of the personnel board. And, as to any claim of 14
censorship, there is no allegation that his comments were not recorded into the public record or 15
that the board members could not hear his advocacy without the microphone. 16 Plaintiff’s other
claims regarding lost business opportunities, reluctant podcast guests, and 17 a visit to his family’s
home by law enforcement officers, are too vague and poorly connected to 18 his other claims to
proceed past screening. 19 I will dismiss the complaint with leave to amend so that plaintiff may
have one 20 opportunity to attempt to remedy these deficiencies. His amended complaint will
supersede its 21 predecessor entirely. The amended complaint should be entitled “Second
Amended Complaint.” 22 This will be his final opportunity to amend. 23 Accordingly, it is hereby
ORDERED that: 24 1. Plaintiff’s amended complaint, ECF No. 5, is DISMISSED with leave to
amend. 25 2. Within thirty days from service of this order, plaintiff shall file either (1) an amended
26 complaint or (2) notice of voluntary dismissal of this action without prejudice. 27 3. Failure to
timely file either an amended complaint or notice of voluntary dismissal 28 may result in the
imposition of sanctions, including a recommendation that this action be 1 | dismissed with
prejudice pursuant to Federal Rule of Civil Procedure 41(b). 2 4. The Clerk of Court shall send
plaintiff a complaint form with this order. 3 4 IT IS SO ORDERED. Dated: _ May 16, 2025 q-

6 JEREMY D. PETERSON

7 UNITED STATES MAGISTRATE JUDGE

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