

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Marie Minichino v. Ruben Gutierrez, et al.

Minichino · No. 25-cv-09544-JCS · Decided December 16, 2025

SUMMARY

The United States District Court for the Northern District of California issued an order to show cause regarding dismissal of Marie Minichino’s pro se complaint. The court concluded that the Elder Abuse and Extortion Act and the Elder Justice Act do not provide a private right of action, and therefore the complaint did not state a viable federal claim. Plaintiff was ordered to file an amended complaint or response by January 7, 2026, or the case would be reassigned with a recommendation for dismissal under 28 U.S.C. § 1915(e)(2)(B).

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	J. PH. C. Spero
JURISDICTION	United States District Court for the Northern District of California
DECIDED	December 16, 2025
DOCKET	25-cv-09544-JCS
DISPOSITION	other
PROCEDURAL POSTURE	After granting Plaintiff leave to proceed in forma pauperis, the court screened the complaint under 28 U.S.C. § 1915(e)(2)(B) and issued an order to show cause why the action should not be dismissed.
STANDARD OF REVIEW	Under 28 U.S.C. § 1915(e)(2)(B), an indigent plaintiff's complaint must be screened and dismissed if it is frivolous, malicious, fails to state a claim, or seeks monetary relief from an immune defendant. The court applied the Rule 12(b)(6) plausibility standard, accepted material factual allegations as true, construed them liberally because Plaintiff was pro se, and disregarded legal conclusions and conclusory statements.
PRECEDENTIAL VALUE	Unknown; district court order with no reporter citation.

TOPICS

- motions to dismiss
- pleadings
- statutory interpretation
- subject matter jurisdiction
- civil procedure

PRACTICE AREAS

civil procedure

federal jurisdiction

elder abuse law

QUESTIONS PRESENTED

1. Whether the complaint stated a claim under the Elder Abuse and Extortion Act, 42 U.S.C. § 3058i, or the Elder Justice Act of 2009, 42 U.S.C. § 1397j.
2. Whether the complaint was subject to dismissal during in forma pauperis screening under 28 U.S.C. § 1915(e)(2)(B).
3. Whether Plaintiff should be given an opportunity to amend or otherwise respond before dismissal.

HOLDINGS

1. Neither the Elder Abuse and Extortion Act, 42 U.S.C. § 3058i, nor the Elder Justice Act of 2009, 42 U.S.C. § 1397j, provides a private right of action.
2. The complaint appeared not to plausibly state a claim and was subject to dismissal under 28 U.S.C. § 1915(e)(2)(B), but the court deferred dismissal and ordered Plaintiff to show cause or amend.

KEY QUOTATIONS

“Because the complaint does not appear to plausibly state a claim, Plaintiff is ORDERED TO SHOW CAUSE why the complaint should not be dismissed.” (at 1)

“Therefore, Plaintiff has not stated any viable claims.” (at 3-4)

FACTUAL BACKGROUND

Plaintiff alleged that Ruben Gutierrez stole foreign bonds and foreign currency worth approximately five million dollars and moved them to his Oakland, California residence. Plaintiff resides in Florida and alleged that the value of the property exceeded \$75,000, while providing an itemized list of the bonds and currency. She named Cyrus Crafft as a second defendant but alleged no facts concerning him, and asserted claims under federal elder-protection statutes.

PROCEDURAL HISTORY

Marie Minichino, proceeding pro se, filed a complaint against Ruben Gutierrez and Cyrus Crafft and applied to proceed in forma pauperis. The court granted that application, reviewed the complaint for sufficiency, concluded that the asserted federal statutes do not provide a private right of action, and ordered Plaintiff to file an amended complaint or respond by January 7, 2026. The court vacated the scheduled case management conference and stated that failure to respond would result in reassignment to a district judge with a recommendation of dismissal.

DISPOSITION

other

CASES CITED

- Marks v. Solcum, 98 F.3d 494, 495 (9th Cir. 1996)
- Diaz v. Int'l Longshore and Warehouse Union, Local 13, 474 F.3d 1202, 1205 (9th Cir. 2007)
- Cedars-Sinai Med. Ctr. v. Nat'l League of Postmasters of U.S., 497 F.3d 972, 975 (9th Cir. 2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555, 570 (2007)
- Coto Settlement v. Eisenberg, 593 F.3d 1031, 1034 (9th Cir. 2010)
- Hebbe v. Pliler, 627 F.3d 338, 342 (9th Cir. 2010)
- Noll v. Carlson, 809 F.2d 1446, 1448 (9th Cir. 1987)
- Lopez v. Smith, 203 F.3d 1122 (9th Cir. 2000) (en banc)
- Ferdik v. Bonzelet, 963 F.2d 1258, 1261 (9th Cir. 1992)
- Karim-Panahi v. L.A. Police Dep't, 839 F.2d 621, 624 (9th Cir. 1988)
- Wister v. White, No. 19-CV-05882-WHO, 2019 WL 6841370, at *3 (N.D. Cal. Dec. 16, 2019)
- Sienze v. Madera Cty. Sheriff's Office, No. 1:17-CV-00736-AWI-SAB, 2017 WL 2423672, at *7 (E.D. Cal. June 5, 2017)
- Drayton-Smith v. Wright, No. 4:15-CV-1952 (CEJ), 2016 WL 2643357, at *2 (E.D. Mo. May 10, 2016)

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