

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Michael Ward v. City of Redding, et al.

Ward v. Upshaw, No. 2:24-cv-0978 TLN AC PS (E.D. Cal. Apr. 3, 2025) (findings and recommendations) · No. 2:24-cv-0978 TLN AC PS · Decided April 4, 2025

SUMMARY

This document is a magistrate judge’s Findings and Recommendations in a pro se civil-rights action arising from a traffic stop and arrest by Redding police officers. It recommends granting defendants’ motion to dismiss the First Amended Complaint, which asserted claims under the Tom Bane Civil Rights Act, the First, Fourth, Fifth, and Fourteenth Amendments, the Americans with Disabilities Act, and the Rehabilitation Act, and recommends closing the case.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Allison Claire
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	April 4, 2025
DOCKET	2:24-cv-0978 TLN AC PS
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff, proceeding pro se, filed a First Amended Complaint asserting claims under the Tom Bane Civil Rights Act, the First, Fourth, Fifth, and Fourteenth Amendments, 42 U.S.C. § 1983, the Americans with Disabilities Act, and § 504 of the Rehabilitation Act. Defendants moved to dismiss under Federal Rule of Civil Procedure 12(b)(6), for judgment on the pleadings under Rule 12(c), for a more definite statement under Rule 12(e), and to strike under Rule 12(f). The magistrate judge issued findings and recommendations recommending dismissal without leave to amend.
STANDARD OF REVIEW	Rule 12(b)(6) dismissal tests the legal sufficiency of the complaint. The court accepted well-pleaded factual allegations as true, construed them in the light most favorable to plaintiff, and liberally construed the pro se pleading, but did not accept legal conclusions or allegations contradicted by properly incorporated materials. The court also applied the Rule 12 incorporation-by-reference and judicial-notice doctrines.

PRECEDENTIAL VALUE	nonprecedential
PARTIES	Michael Ward v. City of Redding, et al.

TOPICS

[motions to dismiss](#)
[civil procedure](#)
[section 1983](#)
[qualified immunity](#)
[ada / disability](#)

PRACTICE AREAS

[civil rights](#)
[constitutional law](#)
[civil procedure](#)
[police misconduct](#)
[disability discrimination](#)

QUESTIONS PRESENTED

1. Whether the complaint stated a Tom Bane Civil Rights Act claim based on alleged threats, intimidation, or coercion.
2. Whether Ward stated a First Amendment claim based on interference with his attempt to record police while detained.
3. Whether the alleged traffic stop, detention, and arrest violated the Fourth Amendment.
4. Whether the officers used objectively excessive force in removing and restraining Ward.
5. Whether the officers unlawfully seized Ward's vehicle keys.
6. Whether Ward stated a Fifth Amendment self-incrimination claim based on his refusal to identify himself.
7. Whether Ward plausibly alleged race discrimination in violation of the Fourteenth Amendment.
8. Whether Ward stated a municipal-liability claim under 42 U.S.C. § 1983.
9. Whether Ward stated claims under Title II of the Americans with Disabilities Act and § 504 of the Rehabilitation Act.
10. Whether dismissal should be without leave to amend because amendment would be futile.

HOLDINGS

1. The complaint did not state a Bane Act claim because its only asserted basis for specific intent was an alleged verbal declaration that officers intended to use excessive force, and the incorporated video contradicted that allegation. Dismissal without leave to amend was recommended.
2. The officer defendants were entitled to qualified immunity because, at the time of Ward's detention, no clearly established First Amendment right permitted a person being detained for investigatory purposes to personally record his own detention. Dismissal without leave to amend was recommended.
3. Ward did not state a Fourth Amendment claim challenging the traffic stop, detention, or arrest because the officers had probable cause or reasonable suspicion for the initial stop and probable cause to detain and arrest him after his prolonged refusal to identify himself during the traffic stop. Dismissal without leave to amend was recommended.

4. Ward did not state an excessive-force claim because the complaint's conclusory allegations were contradicted by the incorporated video, which showed officers using minimal and objectively reasonable force to remove and restrain him after he failed to follow instructions and resisted the investigation. Dismissal without leave to amend was recommended.
5. Ward did not state an unlawful-seizure claim because the incorporated video showed that the officer placed the keys in the vehicle rather than throwing them on the ground or permanently depriving Ward of them. Dismissal was recommended.
6. Ward did not state a Fifth Amendment claim because he did not allege that any statement was compelled and used against him in a criminal proceeding. Dismissal was recommended.
7. Ward did not plausibly allege that the officers acted with discriminatory intent or purpose based on race. Dismissal was recommended.
8. Ward did not state a municipal-liability claim because he did not identify an official municipal policy, custom, or practice that caused a constitutional injury, and he did not adequately allege any underlying constitutional violation.
9. Ward did not state claims under Title II of the ADA or § 504 of the Rehabilitation Act because the complaint and incorporated video did not plausibly show wrongful arrest, failure to accommodate, or greater injury or indignity caused by disability discrimination. Dismissal was recommended.
10. Further leave to amend should be denied because amendment would be futile in light of the allegations and incorporated video evidence.

KEY QUOTATIONS

“The purpose of a motion to dismiss pursuant to Rule 12(b)(6) is to test the legal sufficiency of the complaint.” (at 5)

“There was, at the time of plaintiff’s detention, no “clearly established” First Amendment right for a person being detained for investigatory purposes to personally record his own detention.” (at 12)

“It is clear from the facts presented in the complaint and from the incorporated body camera footage that there was probable cause for both the initial stop and the arrest.” (at 17)

“The totality of the circumstances demonstrate that minimal force was used, and the force that was used was objectively reasonable in light of plaintiff’s resistance to the investigation.” (at 21)

“Here, given the facts alleged and the incorporation of video evidence into the complaint, it is clear that there are no additional facts that plaintiff can allege in order to sufficiently support any of his legal claims.” (at 32)

FACTUAL BACKGROUND

Ward was stopped by Redding police on November 4, 2023, after an officer believed his vehicle lacked a visible front license plate and another officer observed allegedly illegal window tint. Ward refused repeated requests to identify himself, and officers removed him from the vehicle, restrained and arrested him, and conducted an inventory search. Ward alleged that officers interfered with his attempt to record the encounter, used excessive force, seized or mishandled his keys, targeted him because of his race, and failed to accommodate alleged

physical disabilities. The body-camera footage relied on in the complaint showed the officers repeatedly requesting identification, using limited force to remove and restrain Ward after he did not follow instructions, placing the keys in the vehicle, and taking him to a hospital after he complained of injuries.

PROCEDURAL HISTORY

Ward alleged that Redding police officers unlawfully stopped, detained, arrested, and used force against him during a November 4, 2023 traffic stop, interfered with his recording, seized his keys, discriminated against him based on race, and failed to accommodate alleged disabilities. Defendants moved to dismiss and sought judicial notice of police records, audio, and body-camera videos. The court took judicial notice of the existence of the materials and incorporated the body-camera videos by reference because the complaint repeatedly relied on them. The magistrate judge recommended granting the motion to dismiss, denying further leave to amend as futile, and closing the case, subject to review by the assigned district judge.

DISPOSITION

dismissed

CASES CITED

- N. Star International v. Arizona Corporation Commission, 720 F.2d 578, 581 (9th Cir. 1983)
- Balistreri v. Pacifica Police Department, 901 F.2d 696, 699 (9th Cir. 1990)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 570 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Erickson v. Pardus, 551 U.S. 89, 94 (2007)
- Von Saher v. Norton Simon Museum of Art at Pasadena, 592 F.3d 954, 960 (9th Cir. 2010), cert. denied, 564 U.S. 1037 (2011)
- Hebbe v. Pliler, 627 F.3d 338, 340 (9th Cir. 2010)
- Western Mining Council v. Watt, 643 F.2d 618, 624 (9th Cir. 1981)
- Sprewell v. Golden State Warriors, 266 F.3d 979, 988 (9th Cir.), as amended, 275 F.3d 1187 (2001)
- Haines v. Kerner, 404 U.S. 519, 520 (1972)
- Nordstrom v. Ryan, 762 F.3d 903, 908 (9th Cir. 2014)
- Ivey v. Board of Regents of University of Alaska, 673 F.2d 266, 268 (9th Cir. 1982)
- Pena v. Gardner, 976 F.2d 469, 471 (9th Cir. 1992)
- Noll v. Carlson, 809 F.2d 1446, 1448 (9th Cir. 1987)
- Lee v. City of Los Angeles, 250 F.3d 668, 688-689 (9th Cir. 2001)
- Khoja v. Orexigen Therapeutics, Inc., 899 F.3d 988, 998-1002 (9th Cir. 2018)
- Reese v. County of Sacramento, 888 F.3d 1030, 1040 (9th Cir. 2018)
- Sandoval v. County of Sonoma, 912 F.3d 509, 520 (9th Cir. 2019)
- Cornell v. City & County of San Francisco, 17 Cal. App. 5th 766, 804 (2017)
- Fordyce v. City of Seattle, 55 F.3d 436, 439 (9th Cir. 1995)

- *Askins v. U.S. Department of Homeland Security*, 899 F.3d 1035, 1044 (9th Cir. 2018)
- *Reed v. Lieurance*, 863 F.3d 1196, 1211 (9th Cir. 2017)
- *Lee v. City of San Diego*, No. 18-cv-0159 W (BLM), 2019 WL 117775, at *4 (S.D. Cal. Jan. 7, 2019)
- *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982)
- *Pearson v. Callahan*, 555 U.S. 223, 231 (2009)
- *Hunter v. Bryant*, 502 U.S. 224, 227 (1991)
- *Kelly v. Borough of Carlisle*, 622 F.3d 248, 262 (3d Cir. 2010)
- *Mullenix v. Luna*, 577 U.S. 7, 13 (2015)
- *Albright v. Oliver*, 510 U.S. 266, 271 (1994)
- *West v. Atkins*, 487 U.S. 42, 48 (1988)
- *Williams v. Gorton*, 529 F.2d 668, 670 (9th Cir. 1976)
- *Rizzo v. Goode*, 423 U.S. 362, 371-372 (1976)
- *Johnson v. Duffy*, 588 F.2d 740, 743 (9th Cir. 1978)
- *United States v. Montero-Camargo*, 208 F.3d 1122, 1129 (9th Cir. 2000)
- *United States v. Brignoni-Ponce*, 422 U.S. 873, 878 (1975)
- *United States v. Sokolow*, 490 U.S. 1, 7 (1989)
- *United States v. Choudhry*, 461 F.3d 1097, 1100 (9th Cir. 2006)
- *Tarabochia v. Adkins*, 766 F.3d 1115, 1121 (9th Cir. 2014)
- *Ornelas v. United States*, 517 U.S. 690, 696 (1996)
- *Ashcroft v. al-Kidd*, 563 U.S. 731, 739 (2011)
- *Saucier v. Katz*, 533 U.S. 194, 206 (2001)
- *United States v. Evans*, 786 F.3d 779, 786 (9th Cir. 2015)
- *Rodriguez v. United States*, 575 U.S. 348, 354 (2015)
- *Bryan v. MacPherson*, 630 F.3d 805, 825 (9th Cir. 2010)
- *Garlick v. County of Kern*, 167 F. Supp. 3d 1117, 1144 (E.D. Cal. 2016)
- *Graham v. Connor*, 490 U.S. 386, 396 (1989)
- *Drummond ex rel. Drummond v. City of Anaheim*, 343 F.3d 1052, 1056 (9th Cir. 2003)
- *Lavan v. City of Los Angeles*, 797 F. Supp. 2d 1005, 1013 (C.D. Cal. 2011)
- *United States v. Hensley*, 469 U.S. 221, 229 (1985)
- *Hayes v. Florida*, 470 U.S. 811, 816 (1985)
- *Chavez v. Robinson*, 12 F.4th 978, 999 (9th Cir. 2021)
- *Hiibel v. Sixth Judicial District Court*, 542 U.S. 177, 187-188, 190-191 (2004)
- *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252, 265-266 (1977)
- *James v. City of Seattle*, 2011 WL 6150567, at *13 (W.D. Wash. Dec. 12, 2011)
- *Whren v. United States*, 517 U.S. 806 (1996)
- *Thornton v. City of St. Helens*, 425 F.3d 1158, 1166-1167 (9th Cir. 2005)
- *Board of County Commissioners of Bryan County, Oklahoma v. Brown*, 520 U.S. 397, 403 (1997)

- Monell v. Department of Social Services, 436 U.S. 658, 690-691 (1978)
- Connick v. Thompson, 563 U.S. 51, 60-61 (2011)
- Weinreich v. Los Angeles County Metropolitan Transportation Authority, 114 F.3d 976, 978 (9th Cir. 1997)
- Zukle v. Regents of University of California, 166 F.3d 1041, 1045 (9th Cir. 1999)
- Sheehan v. City and County of San Francisco, 743 F.3d 1211, 1232 (9th Cir. 2014)
- Bresaz v. County of Santa Clara, 136 F. Supp. 3d 1125, 1132 (N.D. Cal. 2015)
- California Architectural Building Products v. Franciscan Ceramics, 818 F.2d 1466, 1472 (9th Cir. 1987)
- Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998)
- Martinez v. Ylst, 951 F.2d 1153, 1156-1157 (9th Cir. 1991)

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