

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Hipp v. The City of Vallejo

Hipp · No. 2:25-cv-01806-DJC-SCR · Decided June 28, 2025

SUMMARY

The United States District Court for the Eastern District of California granted four unhoused plaintiffs’ ex parte application for a temporary restraining order against the City of Vallejo. The order enjoins the City from evicting the plaintiffs from their temporary residences pending a hearing on a preliminary injunction, based on irreparable harm, the balance of hardships, the public interest, and serious questions concerning alleged failures to provide reasonable accommodations under Title II of the Americans with Disabilities Act. The court waived the bond requirement and set the preliminary-injunction hearing for July 11, 2025.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Daniel J. Calabretta
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	June 28, 2025
DOCKET	2:25-cv-01806-DJC-SCR
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs filed an action alleging violations of Title II of the Americans with Disabilities Act and the Fourteenth Amendment, together with an ex parte application for a temporary restraining order to prevent the City from evicting them from temporary residences near Vallejo City Hall and related public facilities.
STANDARD OF REVIEW	Temporary restraining orders are evaluated under the preliminary-injunction factors: likelihood of success on the merits, irreparable harm absent relief, balance of equities, and the public interest. Under the Ninth Circuit's serious-questions test, serious questions going to the merits plus a sharply favorable balance of hardships may support relief if the plaintiff also shows likely irreparable injury and that the injunction is in the public interest.
PRECEDENTIAL VALUE	unpublished and interlocutory district-court order

PARTIES

Kurt Hipp, Corletta Tate, M.T., Watson v. City of Vallejo

TOPICS

injunctions

reasonable accommodation

ada / disability

civil rights

civil procedure

PRACTICE AREAS

civil procedure

civil rights

Americans with Disabilities Act

municipal law

injunctive relief

QUESTIONS PRESENTED

1. Whether plaintiffs satisfied the requirements for an ex parte temporary restraining order preventing the City from evicting them from their temporary residences.
2. Whether plaintiffs demonstrated serious questions on the merits of their Title II ADA reasonable-accommodation claims.
3. Whether a bond should be required under Federal Rule of Civil Procedure 65(c).

HOLDINGS

1. Plaintiffs were entitled to a temporary restraining order under the serious-questions test because they demonstrated likely irreparable harm, a balance of hardships sharply in their favor, serious questions concerning their claims, and that the public interest favored relief.
2. Plaintiffs demonstrated serious questions concerning whether the City violated Title II of the ADA by failing to provide reasonable accommodations or communicate with plaintiffs about their disability-related accommodation requests before proceeding with the planned evictions.
3. No bond was required because the record did not indicate that the City would suffer damages from the short delay in eviction proceedings.

KEY QUOTATIONS

“For the reasons stated below, Plaintiffs’ Application (ECF No. 5) is granted.” (Order at 1)

“The purpose of a temporary restraining order is to preserve the status quo and to prevent irreparable harm “just so long as is necessary to hold a hearing, and no longer.”” (Order at 2)

“This requires that public entities, such as the City, make “reasonable modifications” to their policies, practices, and procedures to avoid discrimination on the basis of disability.” (Order at 6)

“As Plaintiffs have shown that they face irreparable injury should they be evicted, the balance of hardships tips clearly in their favor, that the public interest favors a temporary restraining order, and that there are serious questions going to the merits of Plaintiffs’ claims, a temporary restraining order is warranted under the Winter factors.” (Order at 7)

FACTUAL BACKGROUND

Four unhoused plaintiffs lived in or near parking areas by Vallejo City Hall, the Vallejo Library, and the Vallejo Ferry Terminal. The City posted notices announcing evictions, and three plaintiffs submitted requests for reasonable accommodations related to disabilities under Title II of the ADA. Plaintiffs alleged that the City neither provided accommodations nor contacted them about their disabilities or requests, while the City continued to announce a June 30, 2025 eviction. The plaintiffs submitted evidence that eviction would cause individualized harms involving medical treatment, stability, access to services, and disability-related needs.

PROCEDURAL HISTORY

Plaintiffs filed the action and an ex parte application for a temporary restraining order after the City posted notices stating that evictions would occur on June 30, 2025. The district court granted the application, enjoined the specified evictions until July 12, 2025, waived the bond requirement, and set a hearing on a preliminary injunction for July 11, 2025.

DISPOSITION

other

CASES CITED

- *Granny Goose Foods, Inc. v. Brotherhood of Teamsters*, 415 U.S. 423, 439 (1974)
- *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008)
- *Stuhlbarg International Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001)
- *Alliance for Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011)
- *Park Village Apartment Tenants Ass'n v. Mortimer Howard Trust*, 636 F.3d 1150, 1159 (9th Cir. 2011)
- *Knight v. Richardson Bay Regional Agency*, 637 F. Supp. 3d 789, 800 (N.D. Cal. 2022)
- *Volis v. City of Los Angeles Housing Authority*, No. 2:13-cv-01397-MMM-SP, 2014 WL 12704885, at *3 (C.D. Cal. Jan. 7, 2014)
- *Stean v. Wells Fargo & Co.*, No. 3:09-cv-01272-JSW, 2009 WL 1405912, at *2 (N.D. Cal. May 18, 2009)
- *Associated General Contractors of California, Inc. v. Coalition of Economic Equity*, 950 F.2d 1401, 1412 (9th Cir. 1991)
- *McGary v. City of Portland*, 386 F.3d 1259, 1266, 1270 (9th Cir. 2004)
- *Enyart v. National Conference of Bar Examiners*, 630 F.3d 1153, 1167 (9th Cir. 2011)
- *Connecticut General Life Insurance Co. v. New Images of Beverly Hills*, 321 F.3d 878, 882 (9th Cir. 2003)
- *Jorgensen v. Cassidy*, 320 F.3d 906, 919 (9th Cir. 2003)

OPINION

(PS) *Hipp v. The City of Vallejo*

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 KURT HIPPI, et al., No. 2:25-cv-01806-DJC-SCR 12 Plaintiffs, 13

14 v. TEMPORARY RESTRAINING ORDER

15

16 THE CITY OF VALLEJO,

17 Defendant. 18

19 Plaintiffs are four unhoused individuals currently living in and around the 20 parking areas in the vicinity of the Vallejo City Hall. Plaintiffs have filed the present 21 action along with an ex parte Application for Temporary Restraining Order in 22 connection with the City's plan to evict Plaintiffs and others currently residing in this 23 area. Plaintiffs assert that despite their making requests for reasonable 24 accommodations for their disabilities, the City has not provided accommodations, 25 contacted them about their disabilities, or otherwise communicated with them about 26 their requests. Plaintiffs also claim that the City's actions in evicting them violate the 27 Fourteenth Amendment state-created danger doctrine and due process clause. 28 In their Application for Temporary Restraining Order, Plaintiffs request that the Court order the City to not execute its plan to evict Plaintiffs from their temporary 1 residences. For the reasons stated below, Plaintiffs' Application (ECF No. 5) is 2 granted. A hearing on whether a preliminary injunction should issue is set for July 11, 3 2025.

4 BACKGROUND

5 Plaintiffs are four unhoused individuals living in the City of Vallejo. Each Plaintiff 6 lives in or around the parking areas near the Vallejo City Hall, Vallejo Library, and 7 Vallejo Ferry Terminal. (Compl. (ECF No. 1) at 5–6.)¹ On May 22, 2025, City of Vallejo 8 Assistant City Manager Natalie Peterson posted a written notice of eviction near 9 Plaintiffs' residences. (Id. at 7.) The notice informed Plaintiffs and others living in that 10 area that they would be evicted in 5 days' time. (Id.) Susan Masson, another 11 unhoused resident at this location who is not a party to this action, states that Peterson 12 told Masson and others that "the City of Vallejo was not going to honor any 13 Reasonable Accommodation Requests under the Americans with Disabilities Act, and 14 [Peterson] implied that we should not bother to fill them out." (Id.; ECF No. 1-2 at 26, 15 ¶ 3.) On May 27, 2025, Plaintiff Kurt Hipp and Plaintiff M.T., through his mother, 16 Plaintiff Corletta Tate², submitted requests for reasonable accommodations for their 17 disabilities under Title II of the Americans with Disabilities Act. (Compl. at 7.) On that 18 same day, Peterson and another City employee, Flor Magallanes, informed residents 19 that the evictions were temporarily halted to address accommodation requests the 20 City had received. (Id.) 21 During the week of June 12, 2025, Magallanes spoke with Plaintiff Tate and 22 informed her that she and her son would be evicted on June 30, 2025. (Id. at 8.) On

23 June 13, 2025, this eviction date was confirmed when the City posted a notice on its

24 25 1 Plaintiffs have not provided internal pagination for their Complaint and several exhibits are combined within a single file. (See ECF Nos. 1, 1-1, 1-2.) To ensure clarity, for all citations in

this Order to 26 documents provided by Plaintiffs the Court utilizes the Bate stamped page numbers. 27 2 Within Plaintiffs' Application there is a document that seems to request that either Plaintiff Tate be appointed as guardian ad litem for Plaintiff M.T. or the counsel be appointed. Plaintiffs must any such 28 request must be made by separate motion. 1 website that stated that "encampment clean-ups" in the downtown Vallejo area where 2 Plaintiffs reside would resume on June 30, 2025. (Id.) This notice also stated that "City 3 staff began reengaging with the individuals that requested ADA accommodations 4 (from the original clean-up scheduled for May 27th) and will continue outreach efforts 5 prior to the clean-up beginning." (Id.; ECF No. 1-1 at 8.) On June 22, 2025, Plaintiff 6 Watson also submitted a request for reasonable accommodations in connection with 7 her disability. (Compl. at 8.) 8 On June 26, 2025, a new notice was posted informing Plaintiffs that evictions 9 would occur on June 30, 2025. (Id.) To date, Plaintiffs Hipp, Tate/M.T., and Watson 10 each represent that they have not been provided with any accommodations or been 11 contacted by anyone from the City of Vallejo about their disabilities or their requests. 12 (Id. at 7–8.) 13 Plaintiffs filed the present case alleging violations of Title II of the ADA and the 14 Fourteenth Amendment on both state-created danger doctrine and due process 15 grounds. Plaintiffs also filed an ex parte Application for Temporary Restraining Order 16 seeking to enjoin the City's planned eviction of Plaintiffs.³ (ECF No. 5.)

17 LEGAL STANDARD

18 A temporary restraining order may be issued upon a showing "that immediate 19 and irreparable injury, loss, or damage will result to the movant before the adverse 20 party can be heard in opposition." Fed. R. Civ. P. 65(b)(1)(A). The purpose of a 21 temporary restraining order is to preserve the status quo and to prevent irreparable 22 harm "just so long as is necessary to hold a hearing, and no longer." *Granny Goose Foods, Inc. v. Bhd. of Teamsters*, 415 U.S. 423, 439 (1974). 24 In determining whether to issue a temporary restraining order, courts apply the 25 factors that guide the evaluation of a request for preliminary injunctive relief, which 26 3 Plaintiffs' Application is brief and simply incorporates their Complaint by reference. Plaintiffs' 27 Complaint is more akin to a traditional application for temporary restraining order but sufficiently serves both as a complaint and an application for temporary restraining order. In light of their pro se 28 status, Plaintiffs' Complaint and Application are sufficient in combination. 1 are: (1) a likelihood of success on the merits; (2) irreparable harm in the absence of 2 preliminary relief; (3) the balance of equities; and (4) the public interest. See *Winter v. 3 Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); see also *Stuhlberg Int'l Sales Co. 4 v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001) (explaining that the 5 analysis for temporary restraining orders and preliminary injunctions is "substantially 6 identical"). The Ninth Circuit also employs the "serious questions" test, which states 7 "serious questions going to the merits and a balance of hardships that tips sharply 8 towards the plaintiff can support issuance of a preliminary injunction, so long as the 9 plaintiff also shows that there is a likelihood of irreparable injury and that the 10 injunction is in the public interest." *All. for Wild Rockies v. Cottrell*, 632 F.3d 1127, 11 1135 (9th Cir. 2011)

(internal citations and quotations omitted).

12 DISCUSSION

13 I. Notice 14 Plaintiffs indicate that they provided the City with notice of their intent to seek a
15 temporary restraining order. (ECF No. 5–1 at 1.) Plaintiffs represent that notice was 16 given
via email to Vallejo City Attorney Veronica Nebb. (See ECF No. 1 at 9; ECF No. 17 1-2 at 5, ¶
29.) As such, based on the representations in their Application, Plaintiffs 18 have complied with
the Local Rules regarding notice to Defendant or Defendant’s 19 counsel. See Local Rule 231(a).
20 II. Application of the Winter Factors 21 The Court finds that Plaintiffs are entitled to a
Temporary Restraining Order 22 under the serious questions test. First, Plaintiffs have established
that they will suffer 23 irreparable in the absence of preliminary injunctive relief. Other courts
have 24 recognized that in some circumstances eviction can constitute irreparable harm. See 25
e.g., *Park Village Apartment Tenants Ass’n v. Mortimer Howard Trust*, 636 F.3d 1150, 26 1159
(9th Cir. 2011); *Knight v. Richardson Bay Reg’l Agency*, 637 F. Supp. 3d 789, 800 27 (N.D. Cal.
2022); *Volis v. City of Los Angeles Hous. Auth.*, No. 2:13-cv-01397-MMM-SP, 28 1 2014 WL
12704885, at *3 (C.D. Cal. Jan. 7, 2014); *Stean v. Wells Fargo & Co.*, No. 2 3:09-cv-01272-JSW,
2009 WL 1405912, at *2 (N.D. Cal. May 18, 2009). 3 Plaintiffs have also submitted declarations
describing their unique situations 4 and the harm that they will suffer should they be evicted.
Plaintiff Hipp, who is HIV 5 positive, states that he relies on his present close access to the
library’s Wi-Fi to get 6 updated information to manage his HIV and seek housing. (ECF No. 1-2 at
3, ¶ 11.) 7 He also states that his present location puts him in proximity to an HIV clinic where he
8 can receive treatment (*id.* at 1, ¶ 2) and a church that provides hot meals, showers, 9 and laundry
(*id.* at 3, ¶ 11). Plaintiff Tate states that she and her autistic minor son, 10 Plaintiff M.T. rely on
their present location to provide M.T. with a stable environment. 11 Specifically, Tate and M.T.
that the library provides a location where M.T. can escape 12 overstimulation and have some
socialization with other children. (*Id.* at 10, ¶ 16.) 13 Plaintiff Tate also says that M.T. relies on
routine and that changes to his routine 14 present serious challenges. (*Id.* at 11, ¶ 18.) Plaintiff
Watson, who claims to suffer 15 from PTSD, says that her current location provides her a safe,
public, and well-lit 16 location that prevents her PTSD from becoming triggered and allows her to
manage 17 her disorder. (*Id.* at 19, ¶ 6–7.) 18 The circumstances unique to each Plaintiff further
confirms that Plaintiffs will 19 suffer irreparable harm if they are evicted. Moreover, constitutional
violations may 20 alone constitute irreparable harm. *Associated Gen. Contractors of Cal., Inc. v.*
Coal. of 21 Econ. Equity, 950 F.2d 1401, 1412 (9th Cir. 1991). Based on the information 22
presented, the Court concludes that Plaintiffs will suffer irreparable harm if they are 23 evicted
from their current residences. 24 Second, the balance of hardship strongly weighs in Plaintiffs’
favor. There is no 25 evidence presently before the Court that a short delay to the planned
evictions will 26 cause any meaningful hardship to the City. Plaintiffs have alleged that the City
has 27 delayed these evictions on at least one prior occasion. This indicates that there is no 28
urgent need for the removal of Plaintiffs. On Plaintiffs’ side of the hardships, Plaintiffs’ 1 loss their

limited housing and stability — along with the unique harms that Plaintiffs 2 represent they will suffer — will create a substantial hardship. As such, the balance of 3 hardships tips clearly in Plaintiffs’ favor. 4 Third, because the balance of hardships weighs clearly in Plaintiffs’ favor, 5 Plaintiffs need only demonstrate that there are serious questions going to the merits. 6 Under Title II of the ADA, “no qualified individual with a disability shall, by reason of 7 such disability, be excluded from participation in or be denied the benefits of the 8 services, programs, or activities of a public entity, or be subjected to discrimination by 9 any such entity.” 42 U.S.C. § 12312. This requires that public entities, such as the City, 10 make “reasonable modifications” to their policies, practices, and procedures to avoid 11 discrimination on the basis of disability. *McGary v. City of Portland*, 386 F.3d 1259, 12 1266 (9th Cir. 2004). The exception to this is where such modification would 13 “fundamentally alter the nature of the service, program, or activity.” *Id.* A “benefit” 14 under Title II may include “sufficient time to comply with the City’s code enforcement 15 activities in a manner consistent with his disability.” *Id.* at 1270. 16 Plaintiffs allege that despite their requests for accommodations for their 17 disabilities, the City has not provided them with any accommodations. Plaintiffs 18 further allege that the City has not contacted them about their disabilities or possible 19 accommodations. The City’s actions suggest that they agree that those with 20 disabilities who would be evicted are entitled to some form of reasonable 21 accommodations under the ADA. The June 13, 2025 post on the City’s website 22 regarding the upcoming evictions (attached as Exhibit C to Plaintiffs’ Application) 23 states “City staff began reengaging with the individuals that requested ADA 24 accommodations (from the original clean-up scheduled for May 27th) and will 25 continue outreach efforts prior to the clean-up beginning.” (ECF No. 1-1 at 8.) 26 This record suggests that Plaintiffs may be entitled to reasonable 27 accommodations. Plaintiffs’ allegations that the City has not provided any 28 accommodations, communicated with them regarding their disabilities, or otherwise 1 responded to their reasonable accommodation requests, are sufficient to establish 2 that there exist serious questions on the merits of Plaintiffs’ claims. 3 Fourth, the public interest favors the granting of the temporary restraining 4 order. The public has an interest in the enforcement of the ADA. See *Enyart v. Nat’l 5 Conf. of Bar Examiners*, 630 F.3d 1153, 1167 (9th Cir. 2011). The issuance of a 6 temporary restraining order ensures that the parties can be fully heard, and the Court 7 can determine whether a preliminary injunction should be granted. 8 As Plaintiffs have shown that they face irreparable injury should they be evicted, 9 the balance of hardships tips clearly in their favor, that the public interest favors a 10 temporary restraining order, and that there are serious questions going to the merits 11 of Plaintiffs’ claims, a temporary restraining order is warranted under the Winter 12 factors. Given the short time before eviction actions are set to begin and the 13 irreparable harm Plaintiffs face, the Court grants Plaintiffs’ Application for Temporary 14 Restraining Order on an ex parte basis. 15 III. No Bond Shall Be Required 16 Given that the Court will only delay the City’s eviction actions until the Court can 17 determine if a Preliminary Injunction is warranted and that there is no indication from 18 the record before the City will suffer damages from that

delay, the Court finds that no bond is necessary. See *Conn. Gen. Life Ins. Co. v. New Images of Beverly Hills*, 321 F.3d 878, 882 (9th Cir. 2003); see also *Jorgensen v. Cassiday*, 320 F.3d 906, 919 (9th

21 Cir. 2003). Accordingly, the Court waives Plaintiffs' requirement to post bond.

22 CONCLUSION

23 For the foregoing reasons, IT IS HEREBY ORDERED that: 24 1. Plaintiffs' Ex Parte Application for Temporary Restraining Order (ECF No. 25 5) is GRANTED. 26 a. Defendant City of Vallejo, its employees, and/or agents are enjoined 27 from conducting the eviction of: 28 1 i. Plaintiff Kurt Hipp at his temporary residence on the grass next to 2 the city hall and library parking lots, 3 ii. Plaintiffs Corletta Tate and M.T. at their temporary residence near 4 the library, and 5 iii. Plaintiff Watson from her temporary residence near the overflow 6 parking lot for the Vallejo Ferry Terminal. 7 b. This Order shall expire on July 12, 2025, at 5:00 PM unless extended 8 by further order of this Court. 9 2. A hearing on Plaintiffs' Motion for Preliminary Injunction is set for July 11, 10 2025, at 1:30 PM, before District Judge Daniel J. Calabretta. 11 a. On or before July 7, 2025, Defendant shall file their Opposition to 12 Plaintiffs' Motion. 13 b. On or before July 10, 2025, Plaintiffs may file a Reply. 14 c. Plaintiffs are directed to inform the Court by June 3, 2025, whether 15 they prefer that the hearing be conducted in person or via Zoom. 16 . 17 | Dated: June 28, 2025 "Dinel A Chaba

18 THE HONORABLE DANIEL J. CALABRETTA

UNITED STATES DISTRICT JUDGE

19 20 21 22 23 24 25 26 27 28 °