

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

OPINION

(PS) Hipp v. The City of Vallejo

PER CURIAM.

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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

v. TEMPORARY RESTRAINING ORDER

14

THE CITY OF VALLEJO,

15 Defendant. 16

17 18 Plaintiffs are four unhoused individuals currently living in and around the 19 parking areas
in the vicinity of the Vallejo City Hall. Plaintiffs have filed the present 20 action along with an ex
parte Application for Temporary Restraining Order in 21 connection with the City’s plan to evict
Plaintiffs and others currently residing in this 22 area. Plaintiffs assert that despite their making
requests for reasonable 23 accommodations for their disabilities, the City has not provided
accommodations, 24 contacted them about their disabilities, or otherwise communicated with
them about 25 their requests. Plaintiffs also claim that the City’s actions in evicting them violate
the 26 Fourteenth Amendment state-created danger doctrine and due process clause. 27 In their
Application for Temporary Restraining Order, Plaintiffs request that the 28 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 proposed status, Plaintiffs' Complaint and Application are sufficient in combination. There are: (1) a likelihood of success on the merits; (2) irreparable harm in the absence of preliminary relief; (3) the balance of equities; and (4) the public interest. See *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); see also *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001) (explaining that the analysis for temporary restraining orders and preliminary injunctions is "substantially identical"). The Ninth Circuit also employs the "serious questions" test, which states "serious questions going to the merits and a balance of hardships that tips sharply towards the plaintiff can support issuance of a preliminary injunction, so long as the plaintiff also shows that there is a likelihood of irreparable injury and that the injunction is in the public interest." *All. for Wild Rockies v. Cottrell*, 632 F.3d 1127, 11135 (9th Cir. 2011) (internal citations and quotations omitted).

12 DISCUSSION

I. Notice Plaintiffs indicate that they provided the City with notice of their intent to seek a temporary restraining order. (ECF No. 5–1 at 1.) Plaintiffs represent that notice was 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 have complied with the Local Rules regarding notice to Defendant or Defendant's counsel. See Local Rule 231(a).

II. Application of the Winter Factors The Court finds that Plaintiffs are entitled to a Temporary Restraining Order under the serious questions test. First, Plaintiffs have established that they will suffer irreparable in the absence of preliminary injunctive relief. Other courts have recognized that in some circumstances eviction can constitute irreparable harm. See e.g., *Park Village Apartment Tenants Ass'n v. Mortimer Howard Trust*, 636 F.3d 1150, 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, 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). Plaintiffs have also submitted declarations describing their unique situations and the harm that they will suffer should they be evicted. Plaintiff Hipp, who is HIV positive, states that he relies on his present close access to the library's Wi-Fi to get updated information to manage his HIV and seek housing. (ECF No. 1-2 at 3, ¶ 11.) He also states that his present location puts him in proximity to an HIV clinic where he can receive treatment (*id.* at 1, ¶ 2) and a church that provides hot meals, showers, and laundry (*id.* at 3, ¶ 11). Plaintiff Tate states that she and her autistic minor son, Plaintiff M.T. rely on their present location to provide M.T. with a stable environment. Specifically, Tate and M.T. that the library provides a location where M.T. can escape overstimulation and have some socialization with other children. (*Id.* at 10, ¶ 16.) Plaintiff Tate also says that M.T. relies on routine and that changes to his routine present serious challenges. (*Id.* at 11, ¶ 18.) Plaintiff

Watson, who claims to suffer from PTSD, says that her current location provides her a safe, public, and well-lit location that prevents her PTSD from becoming triggered and allows her to manage her disorder. (Id. at 19, ¶ 6–7.) The circumstances unique to each Plaintiff further confirms that Plaintiffs will suffer irreparable harm if they are evicted. Moreover, constitutional violations may alone constitute irreparable harm. *Associated Gen. Contractors of Cal., Inc. v. Coal. of Econ. Equity*, 950 F.2d 1401, 1412 (9th Cir. 1991). Based on the information presented, the Court concludes that Plaintiffs will suffer irreparable harm if they are evicted from their current residences. Second, the balance of hardship strongly weighs in Plaintiffs’ favor. There is no evidence presently before the Court that a short delay to the planned evictions will cause any meaningful hardship to the City. Plaintiffs have alleged that the City has delayed these evictions on at least one prior occasion. This indicates that there is no urgent need for the removal of Plaintiffs. On Plaintiffs’ side of the hardships, Plaintiffs’ loss their limited housing and stability — along with the unique harms that Plaintiffs represent they will suffer — will create a substantial hardship. As such, the balance of hardships tips clearly in Plaintiffs’ favor. Third, because the balance of hardships weighs clearly in Plaintiffs’ favor, Plaintiffs need only demonstrate that there are serious questions going to the merits. Under Title II of the ADA, “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” 42 U.S.C. § 12312. 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. *McGary v. City of Portland*, 386 F.3d 1259, 1266 (9th Cir. 2004). The exception to this is where such modification would “fundamentally alter the nature of the service, program, or activity.” Id. A “benefit” under Title II may include “sufficient time to comply with the City’s code enforcement activities in a manner consistent with his disability.” Id. at 1270. Plaintiffs allege that despite their requests for accommodations for their disabilities, the City has not provided them with any accommodations. Plaintiffs further allege that the City has not contacted them about their disabilities or possible accommodations. The City’s actions suggest that they agree that those with disabilities who would be evicted are entitled to some form of reasonable accommodations under the ADA. The June 13, 2025 post on the City’s website regarding the upcoming evictions (attached as Exhibit C to Plaintiffs’ Application) states “City staff began reengaging with the individuals that requested ADA accommodations (from the original clean-up scheduled for May 27th) and will continue outreach efforts prior to the clean-up beginning.” (ECF No. 1-1 at 8.) This record suggests that Plaintiffs may be entitled to reasonable accommodations. Plaintiffs’ allegations that the City has not provided any accommodations, communicated with them regarding their disabilities, or otherwise responded to their reasonable accommodation requests, are sufficient to establish that there exist serious questions on the merits of Plaintiffs’ claims. Fourth, the public interest favors the granting of the temporary

restraining 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 temporary restraining order ensures that the parties can be fully heard, and the Court can determine whether a preliminary injunction should be granted. 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. Given the short time before eviction actions are set to begin and the irreparable harm Plaintiffs face, the Court grants Plaintiffs' Application for Temporary Restraining Order on an ex parte basis. III. No Bond Shall Be Required Given that the Court will only delay the City's eviction actions until the Court can determine if a Preliminary Injunction is warranted and that there is no indication from 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. Cassidy*, 320 F.3d 906, 919 (9th Cir. 2003). Accordingly, the Court waives Plaintiffs' requirement to post bond.

CONCLUSION

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

THE HONORABLE DANIEL J. CALABRETTA

UNITED STATES DISTRICT JUDGE

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