

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Bekaryan v. United States

Bekaryan · No. 2:24-cv-02574-JAM-CSK · Decided July 28, 2025

SUMMARY

The United States District Court for the Eastern District of California stayed this Federal Tort Claims Act action pending resolution of a related Ninth Circuit appeal concerning administrative exhaustion and equitable tolling. The court found that the appeal in *Perez v. United States* presented similar facts and controlling legal questions that could affect the government's motion to dismiss. The parties were ordered to file a joint status report within ten days of the Ninth Circuit's decision in *Perez* or by July 27, 2026, whichever occurs first.

OPINION

Bekaryan v. United States

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

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11 GAYANE BEKARYAN, No. 2:24-cv-02574-JAM-CSK

12 Plaintiff, ORDER STAYING ACTION 13 v.

14 UNITED STATES OF AMERICA,

15 Defendant. 16

17 Before the Court is the United States’s (“Defendant” or 18 “Government”) motion to dismiss
claims for lack of subject matter 19 jurisdiction. See Mot., ECF No. 13. Plaintiff Gayane
Bekaryan 20 opposed. See Opp’n, ECF No. 14. The United States replied. See 21 Reply, ECF No.
15. For the following reasons, the Court stays 22 this action.1

23 I. FACTUAL BACKGROUND

24 Plaintiff alleges she was injured when she tripped and fell 25 after catching her foot on a
groundwater monitoring well lid 26 27 1 This motion was determined to be suitable for decision
without oral argument. E.D. Cal. L.R. 230(g). The hearing was scheduled 28 for June 17, 2025. 1
maintained by the United States Air Force. See Compl. ¶¶ 11-14, 2 ECF No. 1. After Plaintiff’s
fall, the groundwater well lid was 3 repaired and a new United States Air Force designation label
was 4 put over the lid cover. See Compl. ¶ 12. 5 On October 24, 2023, Plaintiff filed
administrative tort 6 claims with the United States Department of Air Force. See 7 Declaration of

Rachel R. Davidson (“Davidson Decl.”) at ¶ 2 at 8 Ex. 1. Plaintiff’s administrative claim was denied on April 4, 9 2024. Id. at ¶ 3 at Ex. 2. In this initial denial, the agency 10 seemingly referenced inaccurate facts such as a “claim for damage 11 for [a] vehicle.” See Id. Ex. 2. Plaintiff then sought 12 reconsideration in a letter dated April 29, 2024. Id. at ¶ 4. 13 Under 28 C.F.R. § 14.9(b), the Air Force had six months to 14 respond to the request for reconsideration. On September 23, 15 2024, Plaintiff filed this lawsuit. See Compl., ECF No. 1. Then 16 on October 4, 2024, the Air Force issued a final denial of 17 Plaintiff’s claim. See Davidson Decl. at ¶ 5 at Ex. 4. 18 In its motion to dismiss, the Government argues that this 19 Court does not have jurisdiction to hear Plaintiff’s claims 20 because Plaintiff failed to comply with the FTCA’s administrative 21 exhaustion prerequisites by filing her lawsuit before her 22 reconsideration request was denied. See Mot. at 4. Plaintiff 23 argues that the FTCA’s statutory requirements are subject to 24 equitable tolling and that the caselaw the Government relies on 25 is outdated. See Opp’n at 10. In their reply, the Government 26 cites to *Perez v. United States*, No. 2:22-CV-00941-KJM-AC, 2023 27 WL 4669993 (E.D. Cal. July 19, 2023) (appeal pending, 9th Cir. 28 Nos. 23-16139 and 24-7042). Notably, *Perez* is currently being 1 considered by the Ninth Circuit and shares similar material facts 2 and questions of law to the instant case.

3 II. OPINION

4 A. Legal Standard 5 A court may sua sponte stay an action against individual 6 defendants pending resolution of external proceedings which may 7 affect the outcome of a case. “[T]he power to stay proceedings 8 is incidental to the power inherent in every court to control the 9 disposition of the causes on its docket with economy of time and 10 effort for itself, for counsel, and for litigants.” *Landis v. N. 11 Am. Co.*, 299 U.S. 248, 254 (1936); see also *Ernest Bock, LLC v. 12 Steelman*, 76 F.4th 827, 842 (9th Cir. 2023). A district court 13 “may, with propriety, find it is efficient for its own docket and 14 the fairest course for the parties to enter a stay of an action 15 before it, pending resolution of independent proceedings which 16 bear upon the case.” *Mediterranean Enters., Inc. v. Ssangyong 17 Corp.*, 708 F.2d 1458, 1465 (9th Cir. 1983) (citation omitted). 18 The Ninth Circuit has “identified three non-exclusive 19 factors courts must weigh when deciding whether to issue a docket 20 management stay: (1) ‘the possible damage which may result from 21 the granting of a stay’; (2) ‘the hardship or inequity which a 22 party may suffer in being required to go forward’; and (3) ‘the 23 orderly course of justice measured in terms of the simplifying or 24 complicating of issues, proof, and questions of law.’” See *In re 25 PG&E Corp. Sec. Litig.*, 100 F.4th 1076, 1085 (9th Cir. 2024) 26 (citations omitted). The Ninth Circuit has repeatedly held that 27 a district court does not abuse its discretion by staying 28 litigation for efficiency reasons pending resolution of other 1 related proceedings. See, e.g., *Lockyer v. Mirant Corp.*, 398 2 F.3d 1098, 1110–12 (discussing cases upholding stays). 3 B. Analysis 4 The first two

factors of the stay analysis, possible damage of a stay and hardship, balances the potential prejudice to the parties. *Id.* The third factor assesses judicial economy and efficiency. *Id.* Although the parties have not moved for a stay, the Court finds that a stay would serve the interests of both parties as to not prejudice them and that a stay would facilitate the fair administration of justice. Here, the pending appeal in *Perez* deals with a similar timeline of events and identical controlling issues of law. Like the case before this Court, *Perez* involves plaintiffs who filed a lawsuit prematurely before denial of their reconsideration request. *Perez*, 2023 WL 4669993 at *2. *Perez* also raises the central legal question of whether the FTCA's statutory exhaustion requirements are non-jurisdictional. *Id.* A decision from the Ninth Circuit in *Perez* could be dispositive of Defendant's motion to dismiss in this case because it would settle whether or not the FTCA's statutory requirements are subject to equitable tolling in this Circuit. See Opp'n at 10. The Court finds that any potential prejudice to either party from a stay at this stage of the proceedings is minimal because there is no risk of lost evidence and the *Perez* appellate case is likely to resolve within a reasonable period of time. The underlying facts are well-documented in the Air Force's administrative record and the scheduling order in *Perez* indicates that briefing will be completed by the end of next month. See

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1 Raul Perez, et al v. USDA, et al, Nos. 23-16139 and 24-7042, Dkt.

2 Nos. 21 and 18. Regardless of which way this Court decides

3 Defendant's motion to dismiss, a stay allows this Court and the parties a means to avoid the risk that the Ninth Circuit reaches an opposite legal conclusion. Accordingly, the Court exercises its discretion here to stay the proceedings pending finality on the existing FTCA statutory exhaustion legal question being considered by the Ninth Circuit in *Perez*.

9 TII. ORDER

10 Based on the reasons set forth above, the Court STAYS this action pending resolution of the legal questions in *Perez v. United States*, No. 2:22-CV-00941-KJM-AC, 2023 WL 4669993 (E.D. Cal. July 19, 2023) (appeal pending, 9th Cir. Nos. 23-16139 and 24-7042). The parties are ordered to file a joint status report within ten days of the Ninth Circuit decision in *Perez* or July 16, 2026, whichever occurs first. IT IS SO ORDERED. Dated: July 25, 2025 cp,
JOHN A. MENDEZ

21 SENIOR UNITED STATES DISTRICT JUDGE

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