

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Carillo v. Trump, Vance, and Musk

Carillo · No. 2:25-cv-0458 TLN AC PS · Decided April 2, 2025

SUMMARY

The United States District Court for the Eastern District of California grants Emily E. Carillo's application to proceed in forma pauperis. The magistrate judge recommends dismissing the complaint without leave to amend because plaintiff lacks Article III standing and her requested challenge to the President's and Vice President's offices presents a nonjusticiable political question. The findings and recommendations were issued subject to objections within 21 days.

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 2, 2025
DOCKET	2:25-cv-0458 TLN AC PS
DISPOSITION	other
PROCEDURAL POSTURE	A pro se plaintiff sought leave to proceed in forma pauperis and brought a civil-rights action seeking declarations that the President and Vice President were illegitimate holders of office and seeking their removal. The magistrate judge granted in forma pauperis status, screened the complaint under 28 U.S.C. § 1915(e)(2), and issued findings and recommendations that the complaint be dismissed without leave to amend.
STANDARD OF REVIEW	Screening under 28 U.S.C. § 1915(e)(2); the court accepts well-pleaded factual allegations as true, construes them favorably to the plaintiff, and determines whether the complaint states a plausible claim or is frivolous, malicious, seeks relief from an immune defendant, or otherwise fails to state a claim.
PRECEDENTIAL VALUE	unknown
PARTIES	Emily E. Carillo v. Donald Trump, JD Vance, Elon Musk

TOPICS

standing subject matter jurisdiction separation of powers civil procedure fourteenth amendment

PRACTICE AREAS

civil rights federal jurisdiction constitutional law civil procedure

QUESTIONS PRESENTED

1. Whether plaintiff alleged a concrete and particularized injury sufficient to establish Article III standing.
2. Whether plaintiff's request for judicial determination that the President and Vice President were unfit or illegitimate officeholders and should be removed presented a nonjusticiable political question.
3. Whether the complaint's jurisdictional defects could be cured by amendment.
4. Whether plaintiff should be permitted to proceed in forma pauperis.

HOLDINGS

1. Plaintiff lacked Article III standing because the complaint did not allege a specific personal injury caused by defendants' conduct; generalized interests in constitutional governance and the President's fitness for office are insufficient.
2. The claims seeking a declaration that the President and Vice President were illegitimate officeholders and their removal from office presented a political question committed exclusively to Congress and were barred from judicial review.
3. Leave to amend should be denied because the jurisdictional defects could not be cured by amendment.
4. Plaintiff's request to proceed in forma pauperis was granted because she submitted the affidavit required by 28 U.S.C. § 1915(a)(1).

KEY QUOTATIONS

"To bring a lawsuit, a plaintiff must have "standing," meaning they must have a personal injury that gives them a right to bring the lawsuit." (at 3)

"The question of whether the President and Vice President are fit for office and subject to removal is a political question categorically excluded from judicial review." (at 5)

FACTUAL BACKGROUND

Plaintiff alleged that Donald Trump, JD Vance, and Elon Musk had engaged in or protected an insurrection. She alleged that Musk, acting as a private unelected official, had gained access to the federal treasury and Social Security, and that defendants had attacked her rights to life, liberty, and property. Plaintiff sought declarations that Trump and Vance were illegitimate officeholders and their removal from office.

PROCEDURAL HISTORY

Plaintiff filed the complaint and an application to proceed in forma pauperis. The matter was referred to the magistrate judge under Eastern District of California Local Rule 302(c)(21). After screening, the magistrate judge found that plaintiff lacked Article III standing and that the requested relief presented a nonjusticiable political question committed to Congress, and recommended dismissal and closure of the case. The recommendation remained subject to objections and final decision by the assigned district judge.

DISPOSITION

other

CASES CITED

- *Neitzke v. Williams*, 490 U.S. 319, 325, 327 (1989)
- *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)
- *Erickson v. Pardus*, 551 U.S. 89, 94 (2007)
- *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974)
- *Haines v. Kerner*, 404 U.S. 519, 520 (1972)
- *Western Mining Council v. Watt*, 643 F.2d 618, 624 (9th Cir. 1981)
- *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-57, 570 (2007)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)
- *Noll v. Carlson*, 809 F.2d 1446, 1448 (9th Cir. 1987)
- *Lopez v. Smith*, 203 F.3d 1122, 1130-31 (9th Cir. 2000) (en banc)
- *Corral v. Select Portfolio Servicing, Inc.*, 878 F.3d 770, 773 (9th Cir. 2017)
- *Kokkonen v. Guardian Life Insurance Co. of America*, 511 U.S. 375, 377 (1994)
- *Rainero v. Archon Corp.*, 844 F.3d 832, 841 (9th Cir. 2016)
- *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514 (2006)
- *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010)
- *Chandler v. State Farm Mutual Automobile Insurance Co.*, 598 F.3d 1115, 1121-22 (9th Cir. 2010)
- *Corrie v. Caterpillar, Inc.*, 503 F.3d 974, 982 (9th Cir. 2007)
- *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992)
- *Schlesinger v. Reservists Committee to Stop the War*, 418 U.S. 208, 217 (1974)
- *United States v. Richardson*, 418 U.S. 166, 173-78 (1974)
- *Drake v. Obama*, 664 F.3d 774, 779-84 (9th Cir. 2011)
- *Baker v. Carr*, 369 U.S. 186, 217 (1962)
- *Japan Whaling Association v. American Cetacean Society*, 478 U.S. 221, 230 (1986)
- *Flast v. Cohen*, 392 U.S. 83, 95 (1968)
- *Nixon v. United States*, 506 U.S. 224, 229, 233-35 (1993)
- *Cato v. United States*, 70 F.3d 1103, 1105-06 (9th Cir. 1995)

- Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998)
- Martinez v. Ylst, 951 F.2d 1153, 1156-57 (9th Cir. 1991)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 EMILY E. CARILLO, No. 2:25-cv-0458 TLN AC PS 12 Plaintiff, 13 v.
ORDER AND FINDINGS AND RECOMMENDATIONS 14 DONALD TRUMP, JD VANCE,
and ELON MUSK, 15 Defendants. 16 17 18 Plaintiff is proceeding in this action pro se. This
matter was accordingly referred to the 19 undersigned by E.D.

Cal. 302(c)(21). Plaintiff filed a request for leave to proceed in forma 20 pauperis (“IFP”) and has
submitted the affidavit required by that statute. See 28 U.S.C. 21 § 1915(a)(1). The motion to
proceed IFP (ECF No. 2) will therefore be granted. 22 I. Screening 23 A. Standards 24 The federal
IFP statute requires federal courts to dismiss a case if the action is legally 25 “frivolous or
malicious,” fails to state a claim upon which relief may be granted or seeks 26 monetary relief
from a defendant who is immune from such relief.

28 U.S.C. § 1915(e)(2). A 27 claim is legally frivolous when it lacks an arguable basis either in
law or in fact. Neitzke v. 28 Williams, 490 U.S. 319, 325 (1989). In reviewing a complaint under
this standard, the court will 1 (1) accept as true all of the factual allegations contained in the
complaint, unless they are clearly 2 baseless or fanciful, (2) construe those allegations in the light
most favorable to the plaintiff, and 3 (3) resolve all doubts in the plaintiff’s favor.

See Neitzke, 490 U.S. at 327; Von Saher v. Norton 4 Simon Museum of Art at Pasadena, 592 F.3d
954, 960 (9th Cir. 2010), cert. denied, 564 U.S. 5 1037 (2011). 6 The court applies the same rules
of construction in determining whether the complaint 7 states a claim on which relief can be
granted. Erickson v. Pardus, 551 U.S. 89, 94 (2007) (court 8 must accept the allegations as true);
Scheuer v. Rhodes, 416 U.S. 232, 236 (1974) (court must 9 construe the complaint in the light
most favorable to the plaintiff).

Pro se pleadings are held to a 10 less stringent standard than those drafted by lawyers. Haines v.
Kerner, 404 U.S. 519, 520 11 (1972). However, the court need not accept as true conclusory
allegations, unreasonable 12 inferences, or unwarranted deductions of fact. Western Mining
Council v. Watt, 643 F.2d 618, 13 624 (9th Cir. 1981). A formulaic recitation of the elements of a
cause of action does not suffice 14 to state a claim.

Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-57 (2007); Ashcroft v. Iqbal, 15 556 U.S. 662,
678 (2009). 16 To state a claim on which relief may be granted, the plaintiff must allege enough
facts “to 17 state a claim to relief that is plausible on its face.” Twombly, 550 U.S. at 570. “A
claim has 18 facial plausibility when the plaintiff pleads factual content that allows the court to

draw the 19 reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 20 678.

A pro se litigant is entitled to notice of the deficiencies in the complaint and an opportunity 21 to amend, unless the complaint’s deficiencies could not be cured by amendment. See *Noll v. 22 Carlson*, 809 F.2d 1446, 1448 (9th Cir. 1987), superseded on other grounds by statute as stated in 23 *Lopez v. Smith*, 203 F.3d 1122 (9th Cir. 2000)) (en banc). 24 B. The Complaint 25 Plaintiff sues Donald Trump, JD Vance, and Elon Musk for having “engaged in 26 insurrection, and protected the insurrectionists.” ECF No. 1 at 5.

She further alleges, “Elon musk 27 acting as a private unelected official has gained access to our federal treasury and social security.” 28 Id. Plaintiff contends that defendants “have attacked my rights to life, liberty and property.” Id. 1 C. Analysis 2 1. Legal Standard 3 “Federal courts are courts of limited jurisdiction.” *Corral v. Select Portfolio Servicing, 4 Inc.*, 878 F.3d 770, 773 (9th Cir.

2017) (quoting *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 5 U.S. 375, 377 (1994)). “Subject-matter jurisdiction, because it involves a court’s power to hear a 6 case, can never be forfeited or waived.” *Rainero v. Archon Corp.*, 844 F.3d 832, 841 (9th Cir. 7 2016).

The court must dismiss any case over which it lacks subject-matter jurisdiction, and a 8 court must examine whether subject-matter jurisdiction exists, whether or not a motion to dismiss 9 for lack of subject-matter jurisdiction has been brought. Fed. R. Civ. P. 12(h)(3); *Arbaugh v. 10 Y&H Corp.*, 546 U.S. 500, 514 (2006) (noting that courts “have an independent obligation to 11 determine whether subject-matter jurisdiction exists).

12 Courts must “continue to construe pro se filings liberally.” *Hebbe v. Pliler*, 627 F.3d 338, 13 342 (9th Cir. 2010). A pro se complaint ““must be held to less stringent standards than formal 14 pleadings drafted by lawyers.”” Id. (quoting *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per 15 curiam)). A pro se litigant will be given leave to amend their complaint unless it is clear that the 16 deficiencies of the complaint cannot be cured by amendment.

Lopez v. Smith, 203 F.3d 1122, 17 1130–31 (9th Cir. 2000). 18 Here, there are two jurisdictional concerns that the court will address: (1) standing, and 19 (2) the political question doctrine. *Chandler v. State Farm Mut. Auto. Ins. Co.*, 598 F.3d 1115, 20 1121–22 (9th Cir. 2010) (addressing standing); *Corrie v. Caterpillar, Inc.*, 503 F.3d 974, 982 (9th 21 Cir.

2007) (addressing the political question doctrine). 22 2. Plaintiff Lacks Standing 23 To bring a lawsuit, a plaintiff must have “standing,” meaning they must have a personal 24 injury that gives them a right to bring the lawsuit. This is required by Article III of the U.S. 25 Constitution.

To establish Article III standing, a plaintiff must show: (1) “an injury in fact—an invasion of a legally protected interest which is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical”; (2) “a causal connection between the injury and the conduct complained of—the injury has to be fairly... traceable to the challenged action of the defendant, and not... the result of the independent action of some third party not before the court”; and (3) “it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision.” *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992) (omissions in original) (internal quotation marks and citations omitted).

Here, the complaint does not contain any specific information about plaintiff or show that plaintiff has suffered a personal injury because of the acts of defendants. It is not enough to say that her life, liberty, and/or property have been impacted. Even if the court assumes that plaintiff has a generalized interest in constitutional governance and ensuring that the President is fit for office, that interest is insufficient to demonstrate standing.

See *Schlesinger v. Reservists Comm. to Stop the War*, 418 U.S. 208, 217 (1974) (A litigant’s interest cannot be based on the “generalized interest of all citizens in constitutional governance.”); *United States v. Richardson*, 418 U.S. 166, 173–78 (1974) (explaining that a taxpayer’s generalized grievance is insufficient for standing); *Drake v. Obama*, 664 F.3d 774, 779–84 (9th Cir.

2011) (rejecting claims that multiple categories of plaintiffs had standing to challenge the President’s eligibility for office). Accordingly, the complaint should be dismissed because it does not allege facts sufficient to demonstrate standing.

The Political Question Doctrine Bars This Lawsuit The political question doctrine is “essentially a function of the separation of powers,” *Baker v. Carr*, 369 U.S. 186, 217 (1962), and it “excludes from judicial review those controversies which revolve around policy choices and value determinations constitutionally committed for resolution to the halls of Congress or the confines of the Executive Branch,” *Japan Whaling Ass’n v. Am.*

Cetacean Soc’y, 478 U.S. 221, 230 (1986). The rule that some governmental actions are beyond the reach of the courts reflects the Constitution’s limitation of the “judicial power of the United States” to “cases” or “controversies.” U.S. Const. art. III, § 2. “[N]o justiciable controversy is presented when parties seek adjudication of only a political question.” *Flast v. Cohen*, 392 U.S. 83, 95 (1968).

Article II, Section 4 of the United States Constitution provides that “[t]he President, Vice President and all civil Officers of the United States, shall be removed from Office on 1 Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.” 2 U.S. Const. art. II, § 4.

The United States Supreme Court has held that the Constitution 3 deliberately gave the power of impeachment to Congress, not the Judiciary. *Nixon v. United States*, 506 U.S. 224, 229, 233–35 (1993). 5 Plaintiff’s requested relief is that “Donald Trump and JD Vance be declared illegitimate 6 holders of their office and removed therefrom.” ECF No. 1 at 9.

The question of whether the 7 President and Vice President are fit for office and subject to removal is a political question 8 categorically excluded from judicial review. Because resolution of this question rests exclusively 9 with Congress, this Court lacks jurisdiction to consider the issue.

Accordingly, the complaint 10 should be dismissed because the claims are barred by the political question doctrine. 11 II. Leave to Amend is Not Appropriate 12 Leave to amend should be granted if it appears possible that the defects in the complaint 13 could be corrected, especially if a plaintiff is pro se. *Lopez v. Smith*, 203 F.3d 1122, 1130-31 14 (9th Cir.

2000) (en banc). However, if it is clear that a complaint cannot be cured by amendment, 15 the court may dismiss without leave to amend. *Cato v. United States*, 70 F.3d 1103, 1105-06 16 (9th Cir. 1995). Here, the problems with the complaint cannot be cured by amendment because 17 the court lacks jurisdiction to hear this case.

Accordingly, dismissal should be without leave to 18 amend. 19 III. Pro Se Plaintiff’s Summary 20 The Magistrate Judge is recommending that your case be dismissed because the court does 21 not have jurisdiction to hear the case. You have 21 days to object to this recommendation if you 22 wish to do so.

The District Judge will make the final decision. 23 IV. Conclusion 24 For the reasons explained above, it is HEREBY ORDERED that plaintiff’s request to 25 proceed in forma pauperis (ECF No. 2) is GRANTED. 26 It is FURTHER RECOMMENDED that the complaint (ECF No. 1) be DISMISSED and 27 that this case be closed. 28 ///] These findings and recommendations are submitted to the United States District Judge 2 || assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1).

Within twenty-one days 3 || after being served with these findings and recommendations, plaintiff may file written objections 4 | with the court and serve a copy on all parties. *Id.*; see also Local Rule 304(b). Such a document 5 || should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” Failure 6 || to file objections within the specified time may waive the right to appeal the District Court’s 7 | order.

Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153, 8 | 1156-57 (9th Cir. 1991). 9 | DATED: April 1, 2025 10 ~ Chthwen— Clare ALLISON CLAIRE 12 UNITED STATES MAGISTRATE JUDGE 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28

