

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Castillo v. United States

Castillo · No. 3:24-cv-1017-BTM-DEB · Decided September 29, 2025

SUMMARY

The United States District Court for the Southern District of California grants the United States’ motion to dismiss Arturo Marcelino Castillo’s Federal Tort Claims Act complaint as untimely under 28 U.S.C. § 2401(b). The court concludes that the complaint does not adequately establish either diligent pursuit of rights or extraordinary circumstances warranting equitable tolling. The dismissal is granted with leave to amend within 45 days, subject to final dismissal if no amended complaint is filed.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Barry Ted Moskowitz
JURISDICTION	United States District Court for the Southern District of California
DECIDED	September 29, 2025
DOCKET	3:24-cv-1017-BTM-DEB
DISPOSITION	other
PROCEDURAL POSTURE	The United States moved under Federal Rule of Civil Procedure 12(b)(1) and 12(b)(6) to dismiss an incarcerated pro se plaintiff's Federal Tort Claims Act complaint as untimely. The court treated the statute-of-limitations argument under Rule 12(b)(6), granted the motion, and allowed leave to amend.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, dismissal based on a statute of limitations is proper only when the running of the limitations period is apparent on the face of the complaint and it appears beyond doubt that the plaintiff can prove no set of facts establishing timeliness. Material factual allegations are accepted as true and construed in the light most favorable to the plaintiff, and pro se pleadings are construed liberally. The court may consider documents incorporated by reference into the complaint without converting the motion into one for summary judgment.
PRECEDENTIAL VALUE	unknown

PARTIES

Arturo Marcelino Castillo v. United States of America

TOPICS

statute of limitations

motions to dismiss

civil procedure

government liability

torts

PRACTICE AREAS

Federal Tort Claims Act

prisoner civil rights

federal civil procedure

statute of limitations

equitable tolling

QUESTIONS PRESENTED

1. Whether Castillo's FTCA claim was barred by 28 U.S.C. § 2401(b) because he failed to submit an administrative claim within two years after accrual.
2. Whether the complaint adequately alleged diligence and extraordinary circumstances sufficient to support equitable tolling of the FTCA limitations period.
3. Whether Castillo should be granted leave to amend to allege additional facts supporting equitable tolling.

HOLDINGS

1. The FTCA's limitations period in 28 U.S.C. § 2401(b) is nonjurisdictional, so the untimeliness argument is analyzed under Rule 12(b)(6), rather than Rule 12(b)(1).
2. The FTCA claim was untimely because Castillo submitted his administrative claim to the Bureau of Prisons more than two years after the latest alleged accrual date, June 24, 2020.
3. The complaint did not establish entitlement to equitable tolling because it did not allege facts showing both diligent pursuit of rights and extraordinary circumstances that made timely filing impossible.
4. Leave to amend should be granted because the complaint might be curable through specific allegations concerning diligence and extraordinary circumstances.

KEY QUOTATIONS

"[Section] 2401(b) is a nonjurisdictional statute of limitations." (at 2)

"Therefore, the Court finds that Plaintiff's FTCA claim is untimely because Plaintiff failed to submit his administrative claim to the BOP within the requisite two-year period mandated by 28 U.S.C. § 2401(b)." (at 5)

"Therefore, because the Complaint neither alleges facts demonstrating that Plaintiff diligently pursued his rights, nor alleges facts demonstrating that extraordinary circumstances prevented Plaintiff from timely filing his claim, Plaintiff is not entitled to equitable tolling." (at 8)

"Plaintiff has leave to file an Amended Complaint." (at 9)

FACTUAL BACKGROUND

In February 2020, while incarcerated at the Metropolitan Correctional Center in San Diego, Castillo told prison security officials that he needed protective custody because he had dropped out of a prison gang. He was allegedly housed with active gang members and was assaulted on June 24, 2020, suffering facial fractures and head trauma. He alleged that transfers, segregation, COVID-19 procedures, fear for his safety, and prison staff conduct delayed his pursuit of administrative remedies. His administrative FTCA claim was dated and submitted on September 12, 2023.

PROCEDURAL HISTORY

Castillo filed a complaint asserting Bivens and Federal Tort Claims Act claims arising from an assault while he was incarcerated. On screening under 28 U.S.C. § 1915A, the court dismissed the Bivens failure-to-protect claim without leave to amend but allowed the FTCA claim against the United States to proceed. The United States then moved to dismiss the remaining FTCA claim as untimely. The court granted the motion and gave Castillo 45 days to file an amended complaint alleging facts supporting equitable tolling.

DISPOSITION

other

CASES CITED

- Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971)
- Kwai Fun Wong v. Beebe, 732 F.3d 1030, 1047 (9th Cir. 2013), *aff'd* United States v. Wong, 575 U.S. 402, 420 (2015)
- Houston v. United States, No. 22-CV-01902-AB-SHK, 2023 WL 4290396, at *1-2 (C.D. Cal. May 25, 2023)
- Martinez v. United States, No. 22-cv-1803-JLS-BLM, 2022 WL 17407982, at *3 (S.D. Cal. Dec. 2, 2022)
- Balistreri v. Pacifica Police Dep't., 901 F.2d 696, 699 (9th Cir. 1988)
- Parks Sch. of Bus., Inc. v. Symington, 51 F.3d 1480, 1484 (9th Cir. 1995)
- Hebbe v. Pliler, 627 F.3d 338, 342 & n.7 (9th Cir. 2010)
- Ramirez v. Galaza, 334 F.3d 850, 861 (9th Cir. 2003)
- Lopez v. Smith, 203 F.3d 1122, 1130 (9th Cir. 2000)
- Von Saher v. Norton Simon Museum of Art at Pasadena, 592 F.3d 954, 969 (9th Cir. 2010)
- Huynh v. Chase Manhattan Bank, 465 F.3d 992, 997 (9th Cir. 2006)
- Redlin v. United States, 921 F.3d 1133, 1136, 1140 (9th Cir. 2019)
- Parker v. United States, 935 F.2d 176, 177 (9th Cir. 1991)
- Warren v. Fox Family Worldwide, Inc., 328 F.3d 1136, 1139 (9th Cir. 2003)
- United States v. Ritchie, 342 F.3d 903, 907-08 (9th Cir. 2003)
- Brady v. United States, 211 F.3d 499, 502 (9th Cir. 2000)
- Doe v. Hebbard, No. 21-cv-00039-BAS-AGS, 2021 WL 5827075, at *2 (S.D. Cal. Dec. 8, 2021)
- Wong v. Beebe, 732 F.3d 1030, 1052 (9th Cir. 2013)
- Fed. Election Comm'n v. Williams, 104 F.3d 237, 240 (9th Cir. 1996)

- *Rasberry v. Garcia*, 448 F.3d 1150, 1154 (9th Cir. 2006)
- *Ramirez v. Yates*, 571 F.3d 993, 998 (9th Cir. 2009)
- *Hennings v. Cates*, No. 22-55484, 2023 WL 8469341, at *1 (9th Cir. Dec. 7, 2023)
- *Mendoza v. Pollard*, No. 20-cv-0847-GPC-RBB, 2021 WL 2588155, at *6 (S.D. Cal. June 24, 2021)
- *Bautista v. Madden*, No. 17-cv-6004-RGK-FFM, 2018 WL 4961601, at *1 (C.D. Cal. Oct. 15, 2018)
- *Nelson v. Clark*, No. 09-cv-761-MMM-PLA, 2009 WL 6640990, at *5 (C.D. Cal. Nov. 13, 2009), report and recommendation adopted, No. 09-cv-761-MMM-PLA, 2010 WL 2681949 (C.D. Cal. June 30, 2010)
- *Schneider v. California Dep't of Corr.*, 151 F.3d 1194, 1197 n.1 (9th Cir. 1998)
- *Watison v. Carter*, 668 F.3d 1108, 1117 (9th Cir. 2012)
- *Ramirez v. Cnty. of San Bernardino*, 806 F.3d 1002, 1008 (9th Cir. 2015)