

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Mazgaj v. Charles

Mazgaj · No. 3:24-cv-00777-JAH-MSB · Decided February 25, 2025

SUMMARY

The United States District Court for the Southern District of California granted Jason Charles’s motion to dismiss a pro se complaint brought by Mildred Mazgaj and Marian Anthony. The court held that the plaintiffs lacked standing to pursue criminal claims and claims arising from Charles’s testimony in state family-court proceedings, and that Charles was protected by absolute witness immunity. The complaint was dismissed with prejudice.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF
CALIFORNIA 10 11 MILDRED MAZGAJ; MARIAN Case No.: 3:24-cv-00777-JAH-MSB
ANTHONY, 12 ORDER GRANTING DEFENDANT’S Plaintiffs, 13 MOTION TO DISMISS v.
14 [ECF No. 3] JASON CHARLES, 15 Defendant. 16 17 18 19 INTRODUCTION 20 Pending
before the Court is Defendant Jason Charles’ (“Defendant”) Motion to 21 Dismiss.

ECF No. 3 (“Motion” or “Mot.”). Plaintiffs Mildred Mazgaj and Marian 22 Anthony (collectively, “Plaintiffs”) filed a Response in Opposition to the Motion on May 23 31, 2024. ECF No. 6 (“Opposition” or “Opp’n”). No reply was filed. Both Plaintiffs and 24 Defendant are proceeding pro se. Upon careful review of the Parties’ briefing, the relevant 25 law, and for the reasons set forth below, the Court GRANTS Defendant’s Motion, and 26 Plaintiff’s Complaint (ECF No. 1) is DISMISSED with prejudice.

27 /// 28 /// 1 BACKGROUND 2 Plaintiff Mildred Mazgaj is the 78-year-old mother of Plaintiff Anthony, the father 3 of two minor children. ECF No. 1 (“Complaint” or “Compl.”) at 3.1 Plaintiff Anthony “is 4 the petitioner in a family court dissolution matter pending in the San Diego County 5 Superior Court—Marian Anthony v. Corina Galvez, Case No. 19FL005322N (filed May 6 2, 2019)[.]” Anthony v. Segura, 2024 WL 3315996 (S.D.

Cal. July 3, 2024). Plaintiff has 7 filed two additional lawsuits in this judicial district relating to the family court dissolution 8 matter: (1) id. (where Plaintiffs unsuccessfully sued the Honorable Daniel Segura, who 9 presided over Plaintiff Anthony’s child custody proceedings in state court); and (2) Mildred 10 Mazgaj and Marian Anthony v. Corina Galvez, et al., Case No. 3:24-cv-00776-JAH-AHG 11 (where Plaintiffs filed a complaint against his current or former wife and other defendants 12 for claims arising out of the state court dissolution and custody proceedings).

Similarly, 13 here, as best as the Court can determine from the Complaint, Plaintiffs are suing Defendant 14 because of his involvement as an adverse witness in Plaintiff Anthony's state court 15 proceedings. See Compl. at 7. 16 The Complaint alleges Plaintiff Anthony got to know Defendant through a series of 17 weekly bible studies, hosted at Defendant's home, beginning in 2016.

Id. at 15. During 18 these bible studies, Plaintiffs claim the couples would separate into groups for men and 19 women to openly discuss "marital challenges." Id. Plaintiffs claim Defendant did "not 20 hav[e] any recollection whatsoever" of that "topic of discussion" during his testimony. Id. 21 Plaintiffs further assert that this act of "perjury" is a violation of Defendant's "sacred oath 22 as a teacher, an employee of the state[.]" Id.2 Plaintiffs go on to suggest Defendant's 23 conduct should be investigated by the U.S. Department of Education, though Plaintiffs fail 24 25 1 Unless otherwise stated, page references herein will refer to the page numbers generated 26 by the CM/ECF system.

Additionally, because Plaintiffs' Complaint does not contain the 27 numbered paragraphs that are typical of such pleadings, the Court will cite to the Complaint's page numbers. 28 2 1 to explain how Defendant's testimony in the state court proceedings is related to his official 2 employment as an educator. Id. at 18. 3 According to the Complaint, Plaintiff Anthony is "an active member in the local San 4 Diego County tennis community." Id. at 6.

Plaintiffs maintain that, over the course of 5 several years, Plaintiff Anthony would babysit and coach Defendant's minor children in 6 tennis. Id. Plaintiffs even claim Plaintiff Anthony purchased new equipment for 7 Defendant's children and thereafter maintained it for them. Id. Plaintiffs suggest 8 Defendant gave Plaintiff Anthony the security codes to the tennis court next to Defendant's 9 home, which Plaintiffs describe as "indicative of [the] high frequency" of Plaintiff 10 Anthony's coaching of Defendant's children.

Id. at 14; see also id. at 19-20. However, 11 Plaintiffs contend Defendant "willfully denied the frequency" of Plaintiff Anthony's tennis 12 coaching and babysitting duties during his testimony under oath. Id. at 12. 13 Plaintiffs also allege Defendant "conspired" with the mother of Plaintiff Anthony's 14 children to "mislead the courts and law enforcement agencies as to manufacture a species 15 of fraud, from misleading Police for tactical purposes, to misleading the Court with 16 testimony ... abetting to the creation of the situation of domestic terrorism." Id. at 14.

17 However, the Court cannot locate any factual basis for this so-called "conspiracy" in the 18 Complaint. Finally, according to the Court's reading of the Complaint, the only alleged 19 connection between Plaintiff Mazgaj and Defendant is that Plaintiff Mazgaj had a "limited 20 degree of acquaintance" to Defendant by attending children's birthday parties over "the 21 course of years[.]" Id. at 18-19.

22 Plaintiffs' thirty-page Complaint is not structured according to causes of action, as 23 is typical of this type of pleading. Instead, Plaintiffs cite many statutes throughout the body 24 of the Complaint, many of which are criminal, including: 18 U.S.C. Sections 1001 (false 25 statements and concealment of material facts); 1343 (wire fraud); 1344 (bank fraud); 1349 26 (attempted fraud and conspiracy to commit fraud); 1503 (obstruction of justice); 1512 27 (witness tampering); 1519 (destruction of evidence); 1621 (perjury); 1622 (subornation of 28 perjury).

See, e.g., *id.* at 2, 4, 17. Plaintiffs also interject the definition of domestic 1 terrorism, citing 18 U.S.C. Section 2331. *Id.* at 5. In addition, Plaintiffs refer to civil 2 causes of action under 42 U.S.C. Section 1983, (*id.* at 2), as well as defamation, (*id.* at 25), 3 throughout the Complaint. 4
DISCUSSION 5 Defendant moves to dismiss this action, asserting defenses prescribed by Rule 12 of 6 the Federal Rules of Civil Procedure.

Specifically, Defendant challenges the Complaint 7 under Rule 12(b)(6) for failure to state a claim upon which relief can be granted and Rule 8 12(b)(1) for lack of standing, and therefore lack of subject matter jurisdiction. Mot. at 2. 9 As discussed below, because Plaintiffs cannot establish standing, the Court need not 10 address the factual sufficiency of the claims in their pleading.

11 I. Legal Standards 12 A. Federal Rule of Civil Procedure 12(b)(1) 13 Under Federal Rule of Civil Procedure 12(b)(1), a defendant may seek to dismiss a 14 complaint for lack of subject matter jurisdiction. See *Gould v. Mut. Life Ins. Co. v. New* 15 *York*, 790 F.2d 769, 774 (9th Cir. 1986).

As such, the Court cannot reach the merits of any 16 dispute until it confirms its own subject matter jurisdiction. See *Steel Co. v. Citizens for a* 17 *Better Environ.*, 523 U.S. 83, 95 (1998). When a defendant uses Rule 12(b)(1) to attack 18 the face of the complaint, the court must accept the complaint's allegations as true. *Valdez* 19 *v. United States*, 837 F.Supp. 1065, 1067 (E.D.

Cal. 1993), *aff'd*, 56 F.3d 1177 (9th Cir. 20 1995). 21 B. Standing 22 A federal court's judicial power is limited to "cases" or "controversies." U.S. Const., 23 Art. III § 2. A necessary element of Article III's "case" or "controversy" requirement is 24 that a litigant must have "'standing' to challenge the action sought to be adjudicated in the 25 lawsuit." *Valley Forge Coll. v. Ams.*

United for Separation of Church and State, Inc., 454 26 U.S. 464, 471 (1982); *LSO, Ltd. v. Stroh*, 205 F.3d 1146, 1152 (9th Cir. 2000). Therefore, 27 standing is an essential component of the court's subject-matter jurisdiction. *Cetacean* 28 *Cmty. v. Bush*, 386 F.3d 1169, 1174 (9th Cir. 2004). 1 To satisfy Article III's standing requirements, the plaintiff has the burden of 2 establishing: "(1) that plaintiff[] ... suffered an injury in fact that was concrete and 3 particularized, and actual or imminent; (2) that the injury is fairly traceable to the 4 challenged conduct; and (3) that the injury was likely to be redressed by a favorable court 5 decision." *Levine v. Vilsack*, 587 F.3d 986, 991-92 (9th Cir.

2009). The plaintiff must prove all three of these factors in accordance with the standard of proof required at each stage of the litigation. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561 (1992). For the complaint, the standard of proof is such that the plaintiff must allege “sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).

Here, those standards are even less stringent because a document filed pro se is to be “liberally construed.” *Erickson v. Pardus*, 551 U.S. 89, 94 (2007). II. Analysis 1. Standing for Private Individuals to Bring Criminal Prosecution As mentioned supra, Plaintiffs raise a laundry list of criminal codes in the body of their Complaint. “[I]n American jurisprudence ... a private citizen lacks a judicially cognizable interest in the prosecution or nonprosecution of another.” *Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973); see also *Retanan v. Cal. Dep’t of Corr. & Rehab.*, 2012 WL 19 1833888, at *5 (E.D.

Cal. May 18, 2012) (“it is well-established that a private individual has no constitutional right and standing to bring a criminal complaint against another individual”). Therefore, Plaintiffs lack standing to assert claims under any of the criminal codes mentioned in the Complaint.

Accordingly, to whatever extent Plaintiffs attempt to use criminal statutes as causes of action, Plaintiffs’ Complaint is DISMISSED. 2. Standing to Sue an Individual in His Capacity as a Witness in a Judicial Proceeding Plaintiffs also refer to several civil causes of action, including defamation, (Compl. 27 at 25), and a violation of Plaintiffs’ constitutional rights by a public official under 42 U.S.C. 28 Section 1983, (id. at 2).

However, Plaintiffs also lack standing to assert these claims. 1 It is well established that “[w]itnesses in judicial proceedings are absolutely immune 2 from lawsuits based upon their testimony.” *Safouane v. Fleck*, 226 F.Appx. 753, 762 (9th Cir. 2007) (citing *Briscoe v. LaHue*, 460 U.S. 325, 331-32 (1983)). “The mere allegation 4 of a conspiracy to affect the outcome is insufficient to defeat immunity.” *Id.* (citing *Imbler v. Pachtman*, 424 U.S. 409 (1976)).

Witness immunity is a longstanding rule of English common law created to alleviate a witness’s reluctance to testify fully and honestly out of an apprehension of subsequent damages liability. *Briscoe*, 460 U.S. at 331-32. 8 This is one of several lawsuits Plaintiffs have filed against individuals (and one 9 judge) involved in Plaintiff Anthony’s state court proceedings.

This case, specifically, is brought against Defendant because of his involvement as a witness in those proceedings 11 (though the nature of the Defendant’s testimony and its purpose in the state court 12 proceedings is not made clear by the Complaint).

As such, Defendant is entitled to witness immunity, and Plaintiffs lack standing to sue Defendant for any causes of action arising 14 out of his involvement as a witness in Plaintiff

Anthony's dissolution and/or child custody 15 proceedings.

Accordingly, the rest of Plaintiffs claims—to the extent any are properly 16 alleged—are DISMISSED. 17 Furthermore, because Plaintiffs lack standing and, therefore, lack subject-matter 18 jurisdiction, the Court need not address whether Plaintiffs' claims satisfy the standard set 19 forth in Rule 12(b)(6). 20 III. Dismissal With or Without Prejudice 21 The final issue before the Court is whether this action should be dismissed with or 22 without prejudice.

Dismissals for lack of subject-matter jurisdiction are ordinarily granted 23 without prejudice. See Fed.R.Civ.P. 41(b); *Siler v. Dillingham Ship Repair*, 288 F.App'x 24 400, 401 (9th Cir. 2008) (“we vacate the district court's judgment to the extent it dismissed 25 the complaint with prejudice, and remand for entry of judgment dismissing the complaint 26 without prejudice because dismissal for lack of subject[-]matter jurisdiction is not an 27 adjudication on the merits”).

However, a district court may enter a dismissal with prejudice 28 where it is “plainly unlikely that the plaintiff will be able to cure the standing problem.” 1 || *Fieldturf, Inc. v. Sw. Recreational Industries, Inc.*, 357 F.3d 1266, 1269 (Fed. Cir. 2004). 2 Here, Plaintiffs' claims against Defendant are barred because Defendant is “absolutely 3 ||immune” from lawsuits based upon his testimony.

Safouane, 226 F.App'x at 762. 4 || Therefore, it is “plainly unlikely” Plaintiffs can cure their standing problem. *Fieldturf*, 357 5 || F.3d at 1269; see also *Shorter v. California*, 2024 WL 4644841, at *17-19 (C.D. Cal. Sep. 6 2024) (dismissing the plaintiff's claims with prejudice as to defendants with judicial 7 Eleventh Amendment immunity).

Accordingly, Plaintiffs' Complaint is DISMISSED 8 || with prejudice. 9 CONCLUSION 10 Accordingly, IT IS HEREBY ORDERED Defendant's Motion to Dismiss is 11 || GRANTED, and Plaintiffs' Complaint is DISMISSED with prejudice. 12 IT IS SO ORDERED. 13 || DATED: February 25, 2025 15 16 HN A. HOUSTON JONITED STATES DISTRICT JUDGE 17 18 19 20 21 22 23 24 25 26 27 28