

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA**

Simon v. Bostic; Simon v. Washington; Simon v. Cumba

No. 3:24-CV-01665-CAB-MSB; 3:25-CV-00109-CAB-MSB; 3:25-CV-00107-CAB-MSB, United States District
Court for the Southern District of California (March 6, 2025)

OPINION

Simon v. Bostic

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

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11 PHILLIP W. SIMON, Case No: 3:24-CV-01665-CAB-MSB

Case No. 3:25-CV-00109-CAB-MSB 12 Plaintiff, Case No. 3:25-CV-00107-CAB-MSB 13 v.

ORDER DISMISSING CASES WITH

14 TANISHA BOSTIC, et al.,

PREJUDICE

15 Defendants, 16

17 PHILLIP W. SIMON,

18 Plaintiff, 19 v. 20 MICHAEL D. WASHINGTON, et al., 21 Defendants, 22 23 24 25 26 27 28

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1 PHILLIP W. SIMON,

2 Plaintiff, 3 v.

4 DEBORAH A. CUMBA,

5 Defendant, 6 7 8 On March 6, 2025 this Court held a hearing on the three above-captioned cases
to 9 discuss the Court’s tentative ruling and the pending motion to dismiss. Plaintiff, 10
proceeding pro se, appeared telephonically. The Court explained its ruling on the record 11 and
dismissed all three cases with prejudice. As explained to Plaintiff, the Court’s analysis 12 tracks
with is prior orders. 13 First, as for 24-CV-01665, the Rooker-Feldman doctrine applies. The
Court cannot 14 enter injunctive relief that will fundamentally alter the family court’s decision
affecting his 15 benefits. Noel v. Hall, 341 F.3d 1148, 1164 (9th Cir. 2003) (“If a federal plaintiff
asserts 16 as a legal wrong an allegedly erroneous decision by a state court[] and seeks relief from
a 17 state court judgment based on that decision, Rooker–Feldman bars subject matter 18
jurisdiction in federal district court.”). 19 Simon III, 25-CV-00107, involves an ongoing state child
support proceeding. 20 Pursuant to the Younger abstention doctrine, this Court’s interference with
that proceeding 21 would amount to a de facto injunction. Plaintiff has failed to supply any facts

indicating 22 that he cannot raise his federal claims in those proceedings. Abstention is appropriate in 23 this case. See *Kitchens v. Bowen*, 825 F.2d 1337, 1341–42 (9th Cir. 1987). 24 Moreover, all three cases involve claims against judicial officers and/or court 25 employees. Simon II, 25-CV-00109, is based on a “judicial collusion” theory against 26 various judicial officers and employees. [See Doc. No. 1 at 2–3.] Simon III involves a 27 28 2 1 ||lawsuit against a judicial officer who presided over Plaintiff's ongoing case. Judicial 2 ||immunity bars such claims. *Ashelman v. Pope*, 793 F.2d 1072, 1075 (9th Cir. 1986) (en 3 banc) (“Judges and those performing judge-like functions are absolutely immune from 4 || damage liability for acts performed in their official capacities.) And contrary to Plaintiff's 5 ||representations at the hearing, judicial immunity applies even when a judicial officer is 6 in their individual capacity. See *Jackson v. United States*, 896 F.2d 1370 (9th Cir. 7 1/1990). 8 The Court explained these (and additional) reasons for dismissal at the hearing. 9 || Plaintiff's above-captioned lawsuits are dismissed with prejudice pursuant to Fed. R. Civ. 10 ||P. 12(b)(1) and 12(b)(6). 11 12 Itis SO ORDERED. 13 14 || Dated: March 6, 2025 € 15 Hon. Cathy Ann Bencivengo 16 United States District Judge 17 18 19 20 21 22 23 24 25 26 27 28 Case No: 3:24-CV-01665-CAB-MSB Case No. 3:25-CV-00109-CAB-MSB