

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICARDO MELTON, JR.,  
Plaintiff,  
v.  
CHILD PROTECTIVE SERVICES,  
Defendant.

No. 2:16-cv-0112 JAM CKD PS

FINDINGS AND RECOMMENDATIONS

Plaintiff is proceeding in this action in propria persona and has been granted leave to proceed in forma pauperis.<sup>1</sup> The federal in forma pauperis statute authorizes federal courts to dismiss a case if the action is legally “frivolous or malicious,” fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2).

A claim is legally frivolous when it lacks an arguable basis either in law or in fact. Neitzke v. Williams, 490 U.S. 319, 325 (1989); Franklin v. Murphy, 745 F.2d 1221, 1227-28 (9th Cir. 1984). The court may, therefore, dismiss a claim as frivolous where it is based on an indisputably meritless legal theory or where the factual contentions are clearly baseless. Neitzke, 490 U.S. at 327.

---

<sup>1</sup> Plaintiff was granted leave to proceed in forma pauperis by minute order of the District Judge entered January 20, 2016. ECF No. 3.

1 In order to avoid dismissal for failure to state a claim a complaint must contain more than  
2 “naked assertions,” “labels and conclusions” or “a formulaic recitation of the elements of a cause  
3 of action.” Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-557 (2007). In other words,  
4 “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory  
5 statements do not suffice.” Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949 (2009). Furthermore, a claim  
6 upon which the court can grant relief has facial plausibility. Twombly, 550 U.S. at 570. “A  
7 claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw  
8 the reasonable inference that the defendant is liable for the misconduct alleged.” Iqbal, 129 S. Ct.  
9 at 1949. When considering whether a complaint states a claim upon which relief can be granted,  
10 the court must accept the allegations as true, Erickson v. Pardus, 127 S. Ct. 2197, 2200 (2007),  
11 and construe the complaint in the light most favorable to the plaintiff, see Scheuer v. Rhodes, 416  
12 U.S. 232, 236 (1974).

13 Although plaintiff’s complaint is brief, plaintiff sets forth no basis for subject matter  
14 jurisdiction. It is apparent, however, that plaintiff challenges orders issued by state court judges  
15 relating to the custody of plaintiff’s children. A federal district court does not have jurisdiction to  
16 review errors in state court decisions in civil cases. Dist. of Columbia Court of Appeals v.  
17 Feldman, 460 U.S. 462, 476 (1983); Rooker v. Fidelity Trust Co., 263 U.S. 413, 415 (1923).  
18 “The district court lacks subject matter jurisdiction either to conduct a direct review of a state  
19 court judgment or to scrutinize the state court’s application of various rules and procedures  
20 pertaining to the state case.” Samuel v. Michaud, 980 F. Supp. 1381, 1411-12 (D. Idaho 1996),  
21 aff’d, 129 F.3d 127 (9th Cir. 1997). See also Branson v. Nott, 62 F.3d 287, 291-92 (9th Cir.1995)  
22 (finding no subject matter jurisdiction over section 1983 claim seeking, inter alia, implicit  
23 reversal of state trial court action); MacKay v. Pfeil, 827 F.2d 540, 544-45 (9th Cir. 1987)  
24 (attacking state court judgment because substantive defense improper under Rooker-Feldman).  
25 That the federal district court action alleges the state court’s action was unconstitutional does not  
26 change the rule. Feldman, 460 U.S. at 486. Moreover, claims raised in federal district court need  
27 not have been argued in the state judicial proceedings to be barred by the Rooker-Feldman  
28 doctrine. Id. at 483-84 & n.16. If federal claims are “inextricably intertwined” with a state court

1 judgment, the federal court may not hear them. Id. “[T]he federal claim is ‘inextricably  
2 intertwined’ with the state court judgment if the federal claim succeeds only to the extent that the  
3 state court wrongly decided the issues before it.” Pennzoil Co. v. Texaco, Inc., 481 U.S. 1, 25  
4 (1987) (Marshall, J., concurring). In sum, “a state court’s application of its rules and procedures  
5 is unreviewable by a federal district court. The federal district court only has jurisdiction to hear  
6 general challenges to state rules or claims that are based on the investigation of a new case arising  
7 upon new facts.” Samuel, 980 F. Supp. at 1412-13.

8 Plaintiff alleges improprieties related to custody proceedings and judicial orders related  
9 thereto. Plaintiff does not raise a general federal challenge to state law. See Branson, 62 F. 3d at  
10 292. Stripped to its essence, this action is one for federal court review of state court proceedings.  
11 The court finds the instant action amounts to an attempt to litigate in federal court matters that are  
12 inextricably intertwined with state court decisions. The court will therefore recommend this  
13 action be dismissed for lack of subject matter jurisdiction under Rooker-Feldman.<sup>2</sup>

14 Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed for lack of  
15 subject matter jurisdiction.

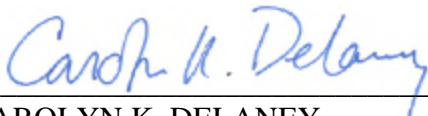
---

16  
17 <sup>2</sup> The domestic relations exception to federal jurisdiction bolsters the conclusion that  
18 subject matter jurisdiction in this case is inappropriate. The domestic relations exception “divests  
19 the federal courts of power to issue divorce, alimony and child custody decrees.” Ankenbrandt v.  
20 Richards, 504 U.S. 689, 703 (1992) (explaining domestic relations exception to diversity  
21 jurisdiction). “Even when a federal question is presented, federal courts decline to hear disputes  
22 which would deeply involve them in adjudicating domestic matters.” Thompson v. Thompson,  
23 798 F.2d 1547, 1558 (9th Cir. 1986), aff’d, 484 U.S. 174 (1988); see also Tree Top v. Smith, 577  
24 F.2d 519 (9th Cir. 1978) (declining to exercise jurisdiction over habeas petition seeking custody  
25 of child who had been adopted by others). In this circuit, federal courts refuse jurisdiction if the  
26 primary issue concerns child custody issues or the status of parent and child or husband and wife.  
27 See Coats v. Woods, 819 F.2d 236 (9th Cir. 1987); Csibi v. Fustos, 670 F.2d 134, 136-37 (9th  
28 Cir. 1982).

23 In Coats, plaintiff, invoking 42 U.S.C. § 1983, alleged that her ex-husband and others  
24 involved in state court proceedings had wrongfully deprived her of custody of her children.  
25 Defendants included the former husband and his current wife, their attorney, the court-appointed  
26 attorney for the children, a court-appointed psychologist, two court commissioners, two superior  
27 court judges, the county, the police department, and an organization called United Fathers.  
28 Plaintiff specifically alleged that defendants deprived her of child custody, thereby depriving her  
of a liberty interest, in violation of 42 U.S.C. §§ 1983, 1985(2), and 1985(3). Because the action  
at its core implicated domestic relations issues, the Ninth Circuit affirmed the district court’s  
decision to abstain from exercising jurisdiction. Like Coats, this case is at core a child custody  
dispute. See id. at 237.

1           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 fourteen days  
3 after being served with these findings and recommendations, any party may file written  
4 objections with the court and serve a copy on all parties. Such a document should be captioned  
5 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections  
6 within the specified time may waive the right to appeal the District Court’s order. Martinez v.  
7 Ylst, 951 F.2d 1153 (9th Cir. 1991).

8 Dated: January 27, 2016

  
\_\_\_\_\_  
CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

11  
12 4 melton0112.rf.57  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28