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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CHARLES T. DAVIS,

Plaintiff,

v.

EDDIE SIMMERSON, ANTHONY
AMERO, CHARLES HOUGHLAND and
BRYON VON RADER,

Defendants.

No. 2:05-cv-1898-JAM-EFB

**ORDER DENYING PLAINTIFF'S MOTION
FOR A NEW TRIAL OR IN THE
ALTERNATIVE A DIRECTED VERDICT**

Plaintiff Charles T. Davis ("Plaintiff") moves for a "new trial or in the alternative a directed verdict due to fraud" (Doc. #175). Defendants Eddie Simmerson, Anthony Amero, Charles Houghland, and Bryon Von Rader (collectively "Defendants") oppose the motion (Doc. #177).¹ For the reasons that follow, Plaintiff's motion is DENIED.

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¹ This motion was determined to be suitable for decision without oral argument. E.D. Cal. L.R. 230(g).

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I. BACKGROUND

Plaintiff, a California prison inmate, brought this suit against Defendants, alleging civil rights violations. The matter was tried before a jury, and a verdict was returned, finding for Defendants on all causes of action. After judgment was entered in favor of Defendants against Plaintiff, Plaintiff submitted a motion for a new trial or in the alternative, a directed verdict due to fraud. The Court will hereinafter reference the request for a directed verdict as one for judgment as a matter of law.

II. OPINION

A. Legal Standard

1. Judgment as a Matter of Law

Plaintiff moves for judgment as a matter of law pursuant to Federal Rule of Civil Procedure 50(b).

After a jury has returned a verdict, Rule 50(b) permits a party to renew its prior Rule 50(a) motion for judgment as a matter of law. See EEOC v. Go Daddy Software, Inc., 581 F.3d 951, 961 (9th Cir. 2009); Mitri v. Walgreen Co., No. 1:10-CV-00538 AWI, 2014 WL 6886835, at *1 (E.D. Cal. 2014). A renewed motion for judgment as a matter of law is appropriate when "the evidence, construed in the light most favorable to the nonmoving party, permits only one reasonable conclusion, and that conclusion is contrary to the jury's verdict." Hagen v. City of Eugene, 736 F.3d 1251, 1256 (9th Cir. 2013); Harper v. City of L.A., 533 F.3d 1010, 1021 (9th Cir. 2008). If there is "such relevant evidence as reasonable minds might accept as adequate to support [the jury's] conclusion," then a Rule 50(b) motion should

1 be denied. Hagen, 736 F.3d at 1257. When considering a Rule
2 50(b) motion, a court should review all of the evidence in the
3 record in the light most favorable to the non-moving party, and
4 must draw all reasonable inferences in favor of the nonmoving
5 party. Reeves v. Sanderson Plumbing Prods., Inc., 530 U.S. 133,
6 150-51 (2000); see Harper, 533 F.3d at 1021. However, "a
7 reasonable inference cannot be supported by only threadbare
8 conclusory statements instead of significant probative evidence;"
9 nor may a jury's conclusion be based on mere speculation.
10 Lakeside-Scott v. Multnomah Cnty., 556 F.3d 797, 802-03 (9th Cir.
11 2009).

12 The court "may not make credibility determinations or weigh
13 the evidence" and "must disregard all evidence favorable to the
14 moving party that the jury is not required to believe." Reeves,
15 530 U.S. at 150-51; see Harper, 533 F.3d at 1021. "The court
16 must accept the jury's credibility findings consistent with the
17 verdict . . . [and] may not substitute its view of the evidence
18 for that of the jury." Winarto v. Toshiba Am. Elecs. Components,
19 Inc., 274 F.3d 1276, 1283 (9th Cir. 2001). "A jury's verdict
20 must be upheld if it is supported by substantial evidence, which
21 is evidence adequate to support the jury's conclusion, even if it
22 is also possible to draw a contrary conclusion." McCullough v.
23 Johnson, Rodenburg, & Lauinger, LLC, 637 F.3d 939, 955 (9th Cir.
24 2011); Harper, 533 F.3d at 1021. Finally, because a Rule 50(b)
25 motion is a renewed motion, "a party cannot properly raise
26 arguments in its post-trial motion for judgment as a matter of
27 law under Rule 50(b) that it did not raise in its pre-verdict
28 Rule 50(a) motion." Go Daddy, 581 F.3d at 961; Freund v. Nycomed

1 Amersham, 347 F.3d 752, 761 (9th Cir. 2003).

2 2. New Trial

3 Federal Rule of Civil Procedure 59(a)(1)(a) provides: "The
4 court may, on motion, grant a new trial on all or some of the
5 issues--and to any party . . . after a jury trial, for any reason
6 for which a new trial has heretofore been granted in an action at
7 law in federal court."

8 "[R]ule 59 does not specify the grounds on which a motion
9 for a new trial may be granted"; therefore, district courts must
10 look to "grounds that have been historically recognized." Zhang
11 v. Am. Gem Seafoods, Inc., 339 F.3d 1020, 1035 (9th Cir. 2003);
12 see also Hunt v. Fields, No. 2:09-CV-3525 KJM AC, 2014 WL
13 1757211, at *3 (E.D. Cal. 2014). These include a verdict that is
14 contrary to the weight of the evidence or is based on false or
15 perjurious evidence; or unfairness to the moving party. Molski
16 v. M.J. Cable, Inc., 481 F.3d 724, 729 (9th Cir. 2007). A court
17 may order a new trial if an erroneous evidentiary ruling
18 substantially prejudiced a party or if its instructions were
19 erroneous or inadequate. Harper, 533 F.3d at 1030; Jazzabi v.
20 Allstate Ins. Co., 278 F.3d 979, 985 n. 24 (9th Cir. 2002).

21 "The grant of a new trial is 'confided almost entirely to
22 the exercise of discretion on the part of the trial court.'" Murphy v. City of Long Beach, 914 F.2d 183, 186 (9th Cir. 1990)
23 (quoting Allied Chem. Corp. v. Daiflon, Inc., 449 U.S. 33, 36
24 (1980)). Even though in the Rule 59 context "the trial court may
25 weigh the evidence and credibility of the witnesses," it should
26 not grant a new trial "merely because it might have come to a
27 different result from that reached by the jury." Roy v.

1 Volkswagen of Am., Inc., 896 F.2d 1174, 1176 (9th Cir. 1990)
2 (internal quotation marks omitted). In addition, the Eastern
3 District of California Local Rule 291.2.provides:

4 Motions for new trial shall state with specific
5 references to relevant portions of any existing record
6 and to any supporting affidavits: (1) the particular
7 errors of law claimed, (2) if a ground is
8 insufficiency of the evidence, the particulars
9 thereof, and (3) if a ground is newly discovered
10 evidence, the particulars thereof, together with a
11 full[,] complete description of the facts relating to
12 the discovery of such evidence and the movant's
13 diligence in connection therewith. A motion for new
14 trial and any opposition thereto shall be supported by
15 briefs.

11 B. Analysis

12 1. Judgment as a Matter of Law ("Directed Verdict")

13 Plaintiff contends he is entitled to judgment as a matter of
14 law because (1) Defendants' counsel committed fraud during the
15 discovery process and (2) there is adequate evidence supporting
16 the conclusion the jury rested its verdict on something other
17 than the evidence. Motion at p. 3.

18 Defendants first contend the motion for judgment as a matter
19 of law should be denied because Plaintiff did not make a Rule
20 50(a) motion before the case was submitted to the jury, a
21 prerequisite to renewing the motion after the verdict has been
22 returned pursuant to Rule 50(b). Opp. at pp. 2-3. Plaintiff
23 argues this procedural issue should not be fatal as it would
24 allow Defendants to "benefit from their own wrongdoing." Reply
25 (Doc. #180) at pp. 1-2. The Court will address the merits of the
26 Rule 50(b) motion despite Plaintiff's failure to make a timely
27 Rule 50(a) motion.

28 Plaintiff alleges Defendants' counsel committed "deliberate

1 fraud," acted in "bad faith," and engaged in "reckless conduct"
2 resulting in "prejudicial error" and "substantial and injurious
3 effect." Motion at pp. 5-7. The record simply does not support
4 such allegations, and the Court denies the motion as to these
5 grounds.

6 Plaintiff next contends the jury's verdict rested on
7 something other than evidence as indicated by the jury returning
8 a verdict "too fast." Motion at p. 8. The Court finds no
9 evidence the jury's verdict was based on anything but the
10 evidence. The Court also does not find there was cumulative
11 error on these combined grounds warranting a directed verdict.

12 Even putting aside Plaintiff's failure to comply with the
13 procedural requirements of Rule 50, the Court finds the record
14 contains "evidence adequate to support the jury's conclusion,"
15 and therefore denies the motion for judgment as a matter of law.
16 McCullough, 637 F.3d at 955.

17 2. New Trial

18 Plaintiff contends he is entitled to a new trial because the
19 Court erred in the following ways: (1) by excluding eighteen
20 exhibits needed by Plaintiff to establish the allegations that
21 Defendants' conduct was motivated by a systemic custom and policy
22 of the California Department of Corrections and Rehabilitation
23 ("CDCR"); (2) by denying his motion to compel discovery
24 responses; (3) by refusing to incorporate Plaintiff's questions
25 into voir dire; (4) by not including Plaintiff's specific request
26 for \$20,000 in compensatory damages in the jury instructions;
27 (5) by defining the distinction between retaliatory damages and
28 the injury that supports damages; (6) by not providing separate

1 verdict forms and jury instructions defining oppression and
2 intimidation as requested for "pin-point findings"; (7) by
3 refusing to issue subpoenas to Plaintiff's witnesses; (8) by
4 dismissing the claims against previously named defendants
5 Runnels, Meier, Barns, and Miranda; (9) by not allowing Plaintiff
6 to raise his state claims; and (10) by denying Plaintiff counsel
7 when he was on medication that mentally impaired his ability to
8 prosecute the case. Motion at pp. 3-4.

9 After considering Plaintiff's contentions, the Court finds
10 no basis upon which to grant a new trial. The Court will address
11 each ground cited by Plaintiff briefly in turn.

12 The Court's exclusion of evidence regarding a custom,
13 policy, practice and pattern of CDCR was not error as the only
14 claims that survived to trial were against the individual
15 Defendants. Motion at p. 10. Plaintiff fails to explain with
16 any citations to the record or evidence how denial of his motion
17 to compel was in error or would support the granting of a new
18 trial. Id. at p. 11. Plaintiff's contentions regarding voir
19 dire are similarly baseless. Id. The Court finds that jury
20 selection was properly conducted.

21 Plaintiff contends it was error for the Court to refuse to
22 include Plaintiff's specific request for \$20,000 in compensatory
23 damages in the jury instructions. Motion at p. 12. However,
24 Plaintiff fails to explain how this refusal constituted error or
25 could serve as the basis for granting a new trial. Plaintiff's
26 dissatisfaction with the Court's definition of damages and injury
27 is irrelevant as the jury did not find Defendants liable. Id.
28 Similarly, Plaintiff's arguments regarding the Court's failure to

1 instruct on the definitions of "oppression" and "intimidation"
2 are unpersuasive as the terms were irrelevant to the questions
3 presented to the jury. Id.

4 As Plaintiff has failed to provide any legal basis for the
5 contention, the Court finds it has not committed "prejudicial
6 error" in failing to shift the costs associated with Plaintiff's
7 production of witnesses to the Defendants. Motion at p. 13.
8 Plaintiff next contends it was error for the Court to dismiss the
9 claims against previously named defendants Runnels, Meier, Barns,
10 and Miranda because they were knowledgeable witnesses that could
11 have provided relevant testimony. Id. The Court's order
12 dismissing these individuals as defendants did not preclude their
13 being called as witnesses; the Court finds no error.

14 Plaintiff states the Court "should also reconsider allowing
15 the state claims to be presented in a new trial." Motion at p.
16 14. The Court finds this *request* fails to support the granting
17 of a new trial.

18 Finally, Plaintiff contends the Court erred by failing to
19 provide him counsel at trial. Motion at p. 14. Plaintiff argues
20 he was on medications during the trial that affected his mental
21 functioning and that it should have been clear to the Court.
22 Plaintiff made no mention of this at trial, and the Court finds
23 no basis for granting a new trial on this newly alleged and
24 factually unsupported ground.

25 To the extent the "Summary of Arguments" is intended to
26 constitute additional grounds for the granting of a new trial or
27 judgment as a matter of law, the Court finds no support in the
28 record of any prejudicial error. Motion at pp. 15-19.


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III. ORDER

For the reasons set forth above, the Court DENIES Plaintiff's motion.

IT IS SO ORDERED.

Dated: March 23, 2015



JOHN A. MENDEZ,
UNITED STATES DISTRICT JUDGE