

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF PUERTO RICO
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4 JOSEPH MAYA-GAMBINO,

5
6 Plaintiff,

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8 v.

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10 MARIA MELENDEZ-RIVERA; EDWIN
11 ZAYAS-FIGUEROA; LYZZETTE
12 TAÑÓN-MELENDEZ; and ALBA T.
13 REYES-BERMUDEZ,

14
15 Defendants.
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Civil No. 09-1117 (JAF)

18 **OPINION AND ORDER**

19 Plaintiff, Joseph Maya-Gambino, brings this action under 42 U.S.C. § 1983 against
20 Defendants, María Meléndez-Rivera, Edwin Zayas-Figueroa, Lyzzette Tañón-Meléndez, and
21 Alba T. Reyes-Bermúdez in their personal capacities and as members of the Junta de Libertad
22 Bajo Palabra (“Parole Board”) alleging a violation of the Due Process Clause. (Docket No. 25.)
23 Defendants move for summary judgment on the grounds of sovereign immunity, judicial
24 immunity, and mootness. (Docket No. 60.)

25 **I.**

26 **Factual and Procedural Summary**

27 Plaintiff is currently serving a fifty-four-year sentence in Puerto Rico’s prison system for
28 violation of the Domestic Abuse Prevention and Intervention Act, 8 L.P.R.A. §§ 601–664
29 (2006). On September 15, 2008, Plaintiff sent a letter to Meléndez-Rivera, acting chair of the

1 Parole Board, informing her that, as of August 2008, he had served the minimum of his sentence
2 necessary to be considered for parole under 4 L.P.R.A. § 1503 (2002). (Docket No. 25-2 at 1.)
3 In this letter, Plaintiff asserted that he was entitled by law to a parole hearing. (Id.) Plaintiff
4 sent two more letters to Meléndez-Rivera over the next two months without response. (Id. at
5 2–4.) Plaintiff then filed a “Request for Initial Hearing” with the Parole Board. (Id. at 5–8.)
6 Plaintiff argued that he was entitled, under the Parole Board’s own regulations, to a parole
7 hearing within forty-five days of completing his minimum sentence. (Id.)

8 Having received no response to his requests, Plaintiff filed his § 1983 claim with this
9 court on February 5, 2009, alleging that the Parole Board’s failure to hold his hearing was a
10 violation of his due process rights under the U.S. Constitution. (Docket No. 25.) Plaintiff seeks
11 an award of \$50,000 in damages and an injunction ordering his immediate release. (Id.) In a
12 previous order, we dismissed Plaintiff’s claims against the Commonwealth of Puerto Rico and
13 the Parole Board. (Docket No. 34.)

14 The Parole Board subsequently held a hearing for Plaintiff on March 4, 2009, and later
15 issued an order denying parole and scheduling the next parole hearing for March 2010. (Docket
16 No. 64-1.) Defendant petitioned the Parole Board for reconsideration (Docket No. 64-2) and
17 was denied (Docket No. 64-3). Defendants failed to answer Plaintiff’s complaint, and, on
18 April 7, 2010, the Clerk of Court entered default against Defendants under Federal Rule of Civil
19 Procedure 55(a). (Docket No. 40.) On September 29, 2010, we granted Defendants’ motion

1 to set aside default. (Docket No. 54.) Defendants subsequently filed an answer to the complaint
2 (Docket No. 56) and the instant summary-judgment motion (Docket No. 60).

3 II.

4 **Rule 56 Summary Judgment**

5 Because Plaintiff is pro se, we construe the complaint more favorably than we would
6 pleadings drafted by an attorney. Ayala Serrano v. Lebrón González, 909 F.2d 8, 15 (1st Cir.
7 1990).

8 We grant a motion for summary judgment “if the pleadings, the discovery and disclosure
9 materials on file, and any affidavits show that there is no genuine issue as to any material fact
10 and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(c). A factual
11 dispute is “genuine” if it could be resolved in favor of either party and “material” if it potentially
12 affects the outcome of the case. Calero-Cerezo v. U.S. Dep’t of Justice, 355 F.3d 6, 19 (1st Cir.
13 2004). In evaluating a motion for summary judgment, we view the record in the light most
14 favorable to the nonmovant. Adickes v. S.H. Kress & Co., 398 U.S. 144, 157 (1970).

15 The movant carries the burden of establishing that there is no genuine issue as to any
16 material fact. Celotex Corp. v. Catrett, 477 U.S. 317, 325 (1986). “Once the moving party has
17 made a preliminary showing that no genuine issue of material fact exists, the nonmovant must
18 ‘produce specific facts, in suitable evidentiary form, to establish the presence of a trialworthy
19 issue.’” Clifford v. Barnhart, 449 F.3d 276, 280 (1st Cir. 2006) (quoting Triangle Trading Co.
20 v. Robroy Indus., Inc., 200 F.3d 1, 2 (1st Cir. 1999)). The nonmovant “may not rely merely on

1 allegations or denials in its own pleading; rather, its response must . . . set out specific facts
2 showing a genuine issue for trial.” Fed. R. Civ. P. 56(e)(2).

3 III.

4 Analysis

5 Plaintiff seeks both injunctive relief and damages for the alleged violations of his rights
6 to due process. For the reasons discussed below, we find that neither form of relief is
7 warranted.

8 A. Injunctive Relief

9 In his complaint, Plaintiff requests an injunction ordering his immediate release from
10 prison as a remedy for alleged due-process violations by the Defendants. (Docket No. 25 at 2.)
11 It is settled law that an inmate may not challenge the validity or duration of his confinement
12 through a suit under § 1983. See Wilkinson v. Dotson, 544 U.S. 74, 78–82 (2005). When
13 seeking release from confinement, state prisoners may not use § 1983 as an end-run around 28
14 U.S.C. § 2254 or its state-law equivalent. See id. at 81. Plaintiff’s request for immediate
15 release from prison necessarily fails.

16 To the extent the Plaintiff seeks an injunction ordering the initial hearing, this claim is
17 moot. It is undisputed that the Parole Board held Plaintiff’s initial hearing on March 4, 2009.

18 B. Damages Relief

19 Plaintiff does not specify whether his claim for \$50,000 in damages is against the
20 Defendants in their personal or official capacities. Regardless, § 1983 is not a cause of action

1 for damages against a state official acting in her official capacity. See Nieves-Marquez v.
2 Puerto Rico, 353 F.3d 108, 124 (1st Cir. 2003) (citing Will v. Mich. Dep't of State Police, 491
3 U.S. 58, 71 (1989) (holding that a claim for damages against a state official in his official
4 capacity is a suit against the state itself and, thus, barred by sovereign immunity)).

5 Defendants assert that they are immune from damages claims brought against them in
6 their personal capacities, citing Johnson v. R.I. Parole Bd. Members, 815 F.2d 5 (1st Cir. 1987).
7 In Johnson, the First Circuit held that, because of their quasi-judicial role, members of the
8 Rhode Island Parole Board were entitled to absolute immunity from suit for all actions taken
9 within the scope of their official duties. See 815 F.2d at 6–8. The First Circuit joined the Ninth
10 Circuit in qualifying that absolute immunity would be granted only for actions within the scope
11 of a parole board member's official duties, "i.e., in processing parole applications and deciding
12 whether to grant, deny, or revoke parole." Id. at 6. It is clear from the record that the
13 Defendants perform the same quasi-judicial functions of processing and deciding parole
14 applications as performed by the Rhode Island Parole Board members in Johnson.
15 Furthermore, Plaintiff makes no argument that the alleged delay in holding his initial hearing
16 was attributable to an action outside the scope of Defendants' duties. We find that Defendants'
17 quasi-judicial role confers absolute immunity upon them for their actions in this case. Having
18 decided that Defendants are immune from suit, we need not reach the merits of Plaintiff's
19 claim of a due-process violation.

1 **IV.**

2 **Conclusion**

3 For the foregoing reasons, we hereby **GRANT** Defendants' summary-judgment motion
4 (Docket No. 60). We **DISMISS WITH PREJUDICE** Plaintiffs' complaint against all
5 remaining defendants.

6 **IT IS SO ORDERED.**

7 San Juan, Puerto Rico, this 30th day of November, 2010.

8 s/José Antonio Fusté
9 JOSE ANTONIO FUSTE
10 Chief U.S. District Judge
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