UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

----oo0oo----

JONATHAN GROVEMAN,

Plaintiff,

v.

REGENTS OF THE UNIVERSITY OF CALIFORNIA, MICHAEL V. DRAKE, GARY S. MAY, MARY CROUGHAN, RENETTA GARRISON TULL, CLARE SHINNERL, PABLO REGUERIN, and DOES 1-10,

Defendants.

No. 2:24-cv-01421 WBS AC

ORDER RE: PLAINTIFF'S MOTION TO AMEND JUDGMENT[1]

----oo0oo----

Plaintiff Jonathan Groveman brought this action against defendants Regents of the University of California, Michael Drake, Gary May, Mary Croughan, Renetta Garrison Tull, Clare Shinnerl, and Pablo Reguerin, alleging federal civil rights violations under 42 U.S.C. § 1983; Title VI of the Civil Rights

[1] The motion is decided on the papers without oral argument pursuant to Local Rule 230(g). The scheduled April 14, 2025 hearing on the motion is hereby VACATED.

Act of 1964, 42 U.S.C. § 2000d et seq.; and Title II of the Americans with Disabilities Act, 42 U.S.C. § 12131 et seq. Plaintiff alleges that defendants allowed a pro-Palestine protest encampment to be established on campus and therefore are responsible for the conduct of encampment participants who excluded plaintiff from the encampment on the basis of his Jewish identity and disability. (First Am. Compl. (Docket No. 24).)

On February 4, 2025, the court dismissed the First Amended Complaint. (See Order Dismissing FAC (Docket No. 43).) Plaintiff now timely moves the court to amend the judgment under Federal Rule of Civil Procedure 59 by "revoking its order of dismissal" (see Docket No. 45 at 1) and seeks permission to file an amended complaint (see Proposed Second Am. Compl. (Docket No. 45 at 5-32)).[2]

Rule 59(e) allows a party to file a "motion to alter or amend a judgment" within 28 days from entry of the judgment. Banister v. Davis, 590 U.S. 504, 507 (2020) (quoting Fed. R. Civ. P. 59(e)). "The Rule gives a district court the chance 'to rectify its own mistakes in the period immediately following' its decision." Id. at 508 (quoting White v. N.H. Dept. of Emp. Sec., 455 U.S. 445, 450 (1982)). "Since specific grounds for a motion to amend or alter are not listed in the rule, the district court enjoys considerable discretion in granting or denying the motion." Allstate Ins. Co. v. Herron, 634 F.3d 1101, 1111 (9th

[2] Plaintiff characterizes his motion as one for a "new trial." See Fed. R. Civ. P. 59(d). However, no trial has occurred, as the court's judgment followed its grant of a motion to dismiss. The court therefore construes the motion as one to amend the judgment under Rule 59(e).

Cir. 2011) (internal quotation marks omitted). "A district court may grant a Rule 59(e) motion if it 'is presented with newly discovered evidence, committed clear error, or if there is an intervening change in the controlling law.'" Kaufmann v. Kijakazi, 32 F.4th 843, 850 (9th Cir. 2022) (quoting Wood v. Ryan, 759 F.3d 1117, 1121 (9th Cir. 2014)).

Plaintiff contends that the court committed clear error by dismissing his complaint without leave to amend. There was no error. As the court held in its dismissal order, and as is confirmed by plaintiff's present motion, any amendment to the complaint would be futile. (See Order Dismissing FAC at 12 (citing Missouri ex rel. Koster v. Harris, 847 F.3d 646, 656 (9th Cir. 2017).) To allow the filing of the Proposed Second Amended Complaint submitted with plaintiff's present motion would not salvage any of plaintiff's claims.

The new allegations in support of plaintiff's claims brought under 42 U.S.C. § 1983 pursuant to the Equal Protection and Free Exercise clauses do not save those claims, as they still fail to draw a sufficient connection between defendants' actions or inactions and the specific harms committed by the protestors. Nor do they do anything to defeat qualified immunity, as they fail to allege violations of clearly established law.

The newly proposed allegations to the effect that plaintiff "has been welcomed as a member of the UC Davis community," "views the UC Davis as the cultural center of his life," and "recently attended the UC Davis women's basketball game against Long Beach last March" (Proposed SAC ¶¶ 21, 55) do nothing to establish that plaintiff was participating in a

federally funded program at the time of the alleged incident. Thus, they do not cure the fact that plaintiff lacks statutory standing on his Title VI claim.

Finally, the proposed amendments to plaintiff's claim under the Americans With Disabilities Act still fail to identify any destination on campus, other than the path the encampment itself was located on, that plaintiff was prevented from reaching. The inaccessibility of a single path does not constitute "inaccessibility at a programmatic level" as required for a violation of Title II of the ADA. See Kirola v. City & Cnty. of San Francisco, 860 F.3d 1164, 1183 (9th Cir. 2017) (emphasis added).

For these reasons, plaintiff's Proposed Second Amended Complaint still fails to state a cognizable claim under federal law. The court's previous finding of futility was thus not erroneous. To allow this meritless suit to go forward would do a disservice to those students and faculty who may have actually suffered deprivations of their civil rights at the hands of the pro-Palestine demonstrators on the university campus. See, e.g., Frankel v. Regents of Univ. of Cal., No. 2:24-cv-04702 MCS PD, 2024 WL 3811250 (C.D. Cal. Aug. 13, 2024); Kestenbaum v. President & Fellows of Harvard Coll., 743 F. Supp. 3d 297 (D. Mass. 2024).

IT IS THEREFORE ORDERED that plaintiff's motion to amend the judgment (Docket No. 45) be, and the same hereby is, DENIED.

Dated: April 10, 2025

WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE