

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES -- GENERAL

Case No. **LA CV 16-07932-VBF**

Dated: Thursday, December 15, 2016

Title: ***Youth Justice Coalition (an organization), Peter Arellano and Jose Reza (individuals, for themselves and on behalf of a class of similarly-situated individuals), Plaintiffs v. City of Los Angeles and Does 1-10 in their individual and official capacities, Defendants***

PRESENT: HONORABLE VALERIE BAKER FAIRBANK, SENIOR U.S. DISTRICT JUDGE

N/A
Courtroom Deputy

N/A
Court Reporter

ATTORNEYS PRESENT FOR PETITIONER

ATTORNEYS PRESENT FOR RESPONDENT

N/A

N/A

PROCEEDINGS (IN CHAMBERS): ORDER Dismissing Complaint Without Prejudice as to Defendants Beck and Feuer Pursuant to Joint Stipulation of All Named Parties

**Terminating Beck as Party Defendant;
Terminating Feuer as Party Defendant**

Represented by counsel, the Youth Justice Coalition (“the Coalition”), Peter Arellano (“Arellano”), and Jose Reza (“Reza”) filed a 42 U.S.C. section 1983 civil-rights complaint against the City of Los Angeles, the City of Los Angeles City Attorney Mike Feuer, Los Angeles Police Department (“LAPD”) Chief Charlie Beck (collectively “the City”), and various Doe defendants on October 25, 2016. *See* Case Management / Electronic Case Filing System Document (“Doc”) 2. The complaint attacks what it calls the unconstitutional enforcement of restrictive “gang injunctions” by the City against thousands of City residents “based on a unilateral and

behind-closed-doors determination by police and city attorneys that they are active participants in a street gang.”

Doc 2 at 3 ¶ 3. The Coalition describes the process by which the City obtains and uses gang injunctions:

3. * * * Without any prior notice or opportunity to contest the allegations of gang membership, the City serves such individuals with these injunctions that subject them to arrest for such ordinary activities as appearing in public with friends and family, working alongside other members of the neighborhood, or wearing the clothes they choose. [n. 1 omitted]

4. * * * In Los Angeles, the process of obtaining gang injunctions works as follows: police and prosecutors work together to bring state[-]court actions against alleged gangs, claiming that their activities constitute a public nuisance and seeking an injunction to abate that nuisance by prohibiting not only illegal activities, but also otherwise lawful conduct – such as associating in public, drinking anywhere in public view, or wearing supposed gang colors or symbols.

In these actions, the City for the most part names as defendants not the individual people they believe are gang members, but rather the gang itself as an unincorporated association. Because the defendant gangs are not organized legal entities, these state[-]court gang injunction actions have always resulted in a judgment against the gang by default, and the City has obtained its gang injunctions based on those defaults.

But once the City obtains those judgments against the supposed gang entity, it uses those orders to restrict the rights of real people who were never parties to the state[-]court action, “serving” individuals [who] it asserts are active participants in the gang with the gang injunction and subjecting them to arrest and prosecution for engaging in any of the prohibited activities.

Doc 2 at 3-4 ¶¶ 3-4 (footnote 1 omitted after paragraph 3).

The Coalition contends that this practice violates the alleged gang participants’ federal and state constitutional rights to procedural due process by depriving them of legal rights without giving them advance notice and an opportunity to be heard. *See* Doc 2 at 4 ¶ 5 (citing *Al Haramain Islamic Found’n, Inc. v. United States Dep’t of the Treasury*, 686 F.3d 965, 985 (9th Cir. 2012)). The Coalition relies on *Vasquez v. Rackauckas*, 734 F.3d 1025 (9th Cir. 2013), where the Ninth Circuit affirmed the undersigned’s decision holding that the putative gang members’ constitutional right to procedural due process was violated by enforcement of a gang injunction against them without first giving them a chance to contest the allegation that they were gang members. *See* Doc 2 at 4 ¶ 6. According to the Coalition, the City “has refused to abide by the holding” in *Vasquez* “and

fails to afford individuals”, such as plaintiffs Arellano and Reza, “due process before enforcing gang injunctions against them.” *See* Doc 2 at 4 ¶ 6.

By Order issued October 26, 2016 (Doc 7), the case was initially assigned to District Judge Otero, who issued an Initial Standing Order (Doc 10) on October 27, 2016.

On October 27, 2016, the Coalition filed proofs of service (Doc 11) stating that it had served the complaint on all three named defendants on October 26 or 27, 2016, making their answers due November 16 or 17, 2016. To date, the defendants have not yet filed answers or other responses to the complaint.

On October 31, 2016, plaintiff Arellano filed a motion for a preliminary injunction (“PI”) (Doc 12), along with a supporting memorandum (Doc 13) and declarations (Docs 14-20) and a Request for Judicial Notice (Doc 21), which they served on defendants on November 1, 2016 (Doc 23). Arellano noticed a hearing on his PI motion for December 5, 2016. Arellano seeks to preliminarily enjoin the City from enforcing “the Judgment Granting Permanent Injunction in *People v. Big Top Locos*, Case No. BC511444 (L.A. Sup. Ct. Sept. 23, 2013) (‘Echo Park Injunction’)” against him. Arellano explains that the order sought would “not preclude Defendants from returning to Superior Court to seek a separate order binding Plaintiff Arellano to the terms of the Echo Park injunction, nor [would] it preclude Defendants from seeking to modify this order on grounds they have provided Plaintiff Arellano adequate due process through additional administrative proceedings.” Doc 12 (Arellano’s Notice of Motion) at 3.

By Order issued November 2, 2016 (Doc 24), the case was transferred to the undersigned.

The Court found that Arellano’s PI motion appeared suitable for resolution without oral argument but that it warranted full briefing. Accordingly, by Order issued November 4, 2016 (Doc 25), the Court vacated the hearing that Arellano had noticed for December 5, 2016, and established deadlines for the City’s mandatory response brief and Arellano’s optional reply brief.

On November 14, 2016, the other named plaintiff, Reza, filed his own application for a preliminary injunction (Doc 28).

Pursuant to the parties’ joint stipulation filed November 14, 2016 (Doc 29), the Court issued an Order on November 15, 2016 (Doc 31) extending the deadlines for briefs on Arellano’s PI application and Reza’s PI application. Defendants must file a brief responding to both PI applications by Friday, December 16, 2016, and Arellano and Reza may file reply briefs by Monday, January 9, 2017. The same Order (Doc 29) also extended

to December 16, 2016 the defendants' deadline to file an answer or dispositive motion in response to the complaint.

Pursuant to a joint stipulation that the parties filed on December 5, 2016 (Doc 33), the Court issued an Order on December 6, 2016 (Doc 34) extending the deadlines for class-certification briefs. Plaintiffs may move to certify a class by January 30, 2017, whereafter defendants must respond by March 1, 2017 and plaintiffs may reply by March 14, 2017.

Most recently, all parties filed a joint stipulation (Doc 35) yesterday, December 14, 2016, whereby plaintiffs agreed to voluntarily dismiss their claims against defendants Michael "Mike" Feuer (named as City Attorney of the City of Los Angeles in his official capacity) and Charles "Charlie" Beck (named as Chief of the Los Angeles Police Department in his official capacity). According to the stipulation, the remaining defendant (the City of Los Angeles) promise in return that it would not file a motion to dismiss the complaint on any ground.

ORDER

The complaint is dismissed *without prejudice* as to defendants Mike Feuer and Charlie Beck.

"Mike Feuer, City Attorney of the City of Los Angeles in his official capacity" is **TERMINATED** as a party defendant.

"Charlie Beck, Chief of the Los Angeles Police Department in his official capacity" is **TERMINATED** as a party defendant.

The only parties defendant remaining in the case are the City of Los Angeles and "Does 1-10 in their official and individual capacities."

IT IS SO ORDERED.