

# **APPENDIX**

## **INDEX TO APPENDICES**

**APPENDIX A. Order of the Federal District Court**

**APPENDIX B. Order of the 9<sup>th</sup> Circuit Court of Appeals**

**APPENDIX C. Denial of Petition for Panel Rehearing**

APPENDIX A. Order of the Federal District Court  
Granting Defendant's Motion to Dismiss

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JS-6

CIVIL MINUTES—GENERAL

**Case No. CV 19-02030-MWF (AGR<sub>x</sub>)**

**Date: June 18, 2019**

**Title: William A. Masters v. Xavier Becerra**

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**Present: The Honorable MICHAEL W. FITZGERALD, U.S. District Judge**

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**Deputy Clerk:**  
Rita Sanchez

**Court Reporter:**  
Not Reported

**Attorneys Present for Plaintiff:**  
None Present

**Attorneys Present for Defendant:**  
None Present

**Proceedings (In Chambers):**

**ORDER GRANTING DEFENDANT XAVIER BECERRA'S MOTION TO DISMISS FIRST AMENDED COMPLAINT [15]**

Before the Court is Defendant Xavier Becerra's Motion to Dismiss First Amended Complaint (the "Motion"), filed on April 29, 2019. (Docket No. 15). Defendant also filed a Reply on June 3, 2019. (Docket No. 16). Plaintiff William Master's Opposition was referenced in the Reply but was not filed on the docket.

The Motion was noticed to be heard on June 17, 2019. The Court read and considered the papers on the Motion and deemed the matter appropriate for decision without oral argument. *See* Fed. R. Civ. P. 78(b); Local Rule 7-15. The hearing was therefore **VACATED** and removed from the Court's calendar.

For the reasons discussed below, the Motion is **GRANTED without leave to amend**. The action is barred by sovereign immunity and the *Rooker-Feldman* doctrine. The Court thus lacks subject matter jurisdiction over this action.

On March 19, 2019, Plaintiff commenced this action, alleging violations of the Second Amendment and procedural due process. (Complaint (Docket No. 1)). On April 11, 2019, Plaintiff filed a First Amended Complaint ("FAC") as of right. (Docket No. 11).

The crux of the FAC is that on February 23, 2019, the Los Angeles Police Department ("LAPD") confiscated two firearms from Plaintiff, one revolver and one

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rifle. (*See id.* ¶¶ 5, 31, Ex. B). On February 24, 2018, Plaintiff received notice of a five-year firearm prohibition from Defendant, which stated as follows:

The California Department of Justice is in receipt of a Law Enforcement Report of Firearms Prohibition from the LAPD MENTAL EVAL UNIT. Accordingly, you are hereby notified that pursuant to Welfare and Institutions Code section 8100, subdivision (b)(1) you cannot possess, have under your custody or control, purchase or receive, or attempt to purchase or receive, any firearm whatsoever or any other deadly weapon for a period of fire years . . . [from] February 23, 2018 [to] February 23, 2023.

Pursuant to Welfare and Institutions Code section 8100, subdivision (b)(3)(A) you may petition the superior court in the county of your residence for an order that you may own, possess, have custody or control over, receive, or purchase firearms. If the court finds by a preponderance of the evidence that you would be likely to use firearms in a safe and lawful manner, the court may restore your right . . .

(*Id.* ¶ 31, Ex. A).

Plaintiff contends that these restrictions—which apply to individuals who communicate a serious threat of violence against an identifiable victim during mental health treatment—are inconsistent with the Second Amendment and procedural due process of the Fourteenth Amendment and requests various forms of relief from the Court. (*Id.* ¶¶ 6–44).

Through the Motion, Defendant argues that the FAC should be dismissed under Federal Rule of Civil Procedure 12(b)(1) and 12(b)(6) for several reasons:

(1) Plaintiff's claims are barred by sovereign immunity under the Eleventh Amendment and the *Rooker-Feldman* doctrine; (2) Plaintiff lacks standing; and (3) Plaintiff fails to state any cognizable claims for relief. (Mot. at 5–22). While cognizant that a pro se complaint must be liberally construed, the Court agrees with Defendant for the following two jurisdictional reasons:

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---

*First*, sovereign immunity under the Eleventh Amendment bars Plaintiff's action.

The Eleventh Amendment, by providing states with immunity from suit in certain instances, concerns the Court's jurisdiction. *See Seminole Tribe of Florida v. Florida*, 517 U.S. 44, 54 (1996) ("For over a century we have reaffirmed that federal jurisdiction over suits against unconsenting States was not contemplated by the Constitution when establishing the judicial power of the United States."). A federal court may not adjudicate a suit against a state alleging violations of that state's own law. *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 106 (1984) (noting that adjudicating a lawsuit against a state based on state law is particularly offensive to federalism). The Eleventh Amendment applies with equal force to suits against state agencies or departments. *See Puerto Rico Aqueduct & Sewer Auth. v. Metcalf & Eddy, Inc.*, 506 U.S. 139, 144 (1993) ("[T]he same rationale ought to apply to claims of Eleventh Amendment immunity made by States and state entities possessing a claim to share in that immunity.").

However, the Eleventh Amendment does not "bar actions for prospective declaratory or injunctive relief against state officers in their official capacities for their alleged violations of federal law." *Coal. to Defend Affirmative Action v. Brown*, 674 F.3d 1128, 1134 (9th Cir. 2012). Pursuant to *Ex parte Young*, "[t]he individual state official sued 'must have some connection with the enforcement of the act.'" *Id.* (quoting *Ex parte Young*, 209 U.S. 123, 157 (1908)). "[T]hat connection must be fairly direct; a generalized duty to enforce state law or general supervisory power over the persons responsible for enforcing the challenged provision will not subject an official to suit." *Coalition to Defend Affirmative Action v. Brown*, 674 F.3d 1128, 1134 (9th Cir. 2012) (citing *L.A. Cnty. Bar Ass'n v. Eu*, 979 F.2d 697, 704 (9th Cir. 1992)).

Here, the Court concludes that the Office of the Attorney General, an arm of the State of California, is immune from suit. California has neither consented to nor waived its sovereign immunity regarding the legal theories asserted in the FAC. Similarly, Congress has not abrogated California's sovereign immunity. Moreover, the LAPD seized Plaintiff's firearms and is otherwise affirmatively enforcing the firearms

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

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prohibition. While Defendant does have a general duty to enforce California law, that duty is far too attenuated and does not fall under the exception set forth in *Ex parte Young*. ~ *Supremacy Clause*.

Accordingly, Plaintiff's claims are barred against Defendant by sovereign immunity under the Eleventh Amendment.

**Second**, Plaintiff's claims are barred by the *Rooker-Feldman* doctrine.

An application of the *Rooker-Feldman* doctrine “prohibits a federal district court from exercising subject matter jurisdiction over a suit that is a *de facto* appeal from a state court judgment.” *Kougasian v. TMSL, Inc.*, 359 F.3d 1136, 1139 (9th Cir. 2004); *Cooper v. Ramos*, 704 F.3d 772, 777 (9th Cir. 2012) (“[The *Rooker-Feldman* doctrine] instructs that federal district courts are without jurisdiction to hear direct appeals from the judgments of state courts.”). Additionally, a federal district court has no jurisdiction over issues that are “inextricably intertwined” with allegations underlying the judgment of a state court. *District of Columbia Ct. of Appeals v. Feldman*, 460 U.S. 462, 486-87 (1983). A claim is inextricably intertwined with a state court judgement if the “federal claim succeeds only to the extent that the state court wrongly decided the issues before it.” *Pennzoil Co. v. Texaco, Inc.*, 481 U.S. 1, 25 (1987). This lack of federal jurisdiction holds even when the plaintiff is bringing a constitutional claim. *Kougasian*, 460 U.S. at 1142.

Here, Defendant first notes that “the laws at issue provide detailed procedures governing the ways persons may challenge the firearm prohibitions imposed on them via petition to superior court.” (Mot. at 9 (citing Cal. Welf. & Inst. Code §§ 8100(b), 8102(b), 8103(f))). While it is unclear whether Plaintiff has brought suit in Superior Court pursuant to the relevant procedural requirements, the Court concludes that Plaintiff's claims in this action would be barred either way. If Plaintiff initiated an action in Superior Court, then this action is conclusively barred by the *Rooker-Feldman* doctrine because the present suit would be “inextricably intertwined” with state court proceedings. If Plaintiff did not initiate a challenge to his firearm restriction in Superior Court, then this action is an attempt to bypass those procedures squarely

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

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within the jurisdiction of the Superior Court and his claims are still “inextricably intertwined” with proceedings that should be in state court.

In sum, the action is barred by sovereign immunity and the *Rooker-Feldman* doctrine. The Court thus lacks subject matter jurisdiction, and having so concluded, need not reach the merits of the Defendant’s other arguments.

Accordingly, the Motion is **GRANTED without leave to amend.**

This Order shall constitute notice of entry of judgment pursuant to Federal Rule of Civil Procedure 58. Pursuant to Local Rule 58-6, the Court **ORDERS** the Clerk to treat this Order, and its entry on the docket, as an entry of judgment.

IT IS SO ORDERED.

The Court may not provide advice to any party, including persons who are not represented by a lawyer. (Such persons are known as “pro se litigants.”) However, this District does have a “Pro Se Clinic” that can provide information and assistance about many aspects of civil litigation in this Court. Public Counsel’s Federal Pro Se Clinic provides free legal assistance to people representing themselves in the United States District Court for the Central District of California. The Pro Se Clinic is located at the Roybal Federal Building and Courthouse, 255 East Temple Street, Los Angeles, California 90012.

The Los Angeles Clinic operates by appointment only. You may schedule an appointment either by calling the Clinic or by using an internet portal. You can call the clinic at (213) 385-2977, ext. 270, or you can submit an internet request at the following site: <http://prose.cacd.uscourts.gov/los-angeles>.

Clinic staff can respond to many questions with a telephonic appointment or through your email account. It may be more convenient to email your questions or schedule a telephonic appointment. Staff can also schedule you for an in-person appointment at their location in the Roybal Federal Building and Courthouse.

UNITED STATES DISTRICT COURT  
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In addition, the Court has information of importance to pro se litigants at the “People Without Lawyers” link, <http://prose.cacd.uscourts.gov/>.

Pro se litigants may also apply to the Court for permission to electronically file. Form CV-005 is available at <http://www.cacd.uscourts.gov/court-procedures/forms>.

The Court’s website home page is <http://www.cacd.uscourts.gov>.

APPENDIX B. Order of the 9<sup>th</sup> Circuit Court of Appeals  
Affirming Dismissal

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

MAR 23 2021

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

WILLIAM A. MASTERS,

No. 19-55757

Plaintiff-Appellant,

D.C. No. 2:19-cv-02030-MWF-  
AGR

v.

XAVIER BECERRA, in his official capacity  
as the Attorney General of the State of  
California,

MEMORANDUM\*

Defendant-Appellee.

Appeal from the United States District Court  
for the Central District of California  
Michael W. Fitzgerald, District Judge, Presiding

Submitted March 16, 2021\*\*

Before: GRABER, R. NELSON, and HUNSAKER, Circuit Judges.

William A. Masters appeals pro se from the district court's judgment  
dismissing his action alleging constitutional claims related to California Welfare  
and Institutions Code § 8100(b) and § 8102(a). We have jurisdiction under 28

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\* This disposition is not appropriate for publication and is not precedent  
except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously concludes this case is suitable for decision  
without oral argument. See Fed. R. App. P. 34(a)(2).

U.S.C. § 1291. We review de novo a dismissal under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). *Conservation Force v. Salazar*, 646 F.3d 1240, 1241 (9th Cir. 2011). We may affirm on any basis supported by the record. *Yagman v. Garcetti*, 852 F.3d 859, 863 (9th Cir. 2017). We affirm.

Dismissal of Masters's Second Amendment challenge was proper because Masters failed to allege facts sufficient to state a plausible claim. *See United States v. Chovan*, 735 F.3d 1127, 1136 (9th Cir. 2013) (setting forth two-step Second Amendment inquiry to determine appropriate level of scrutiny for challenged law); *see also Sylvester v. Harris*, 843 F.3d 816, 823 (9th Cir. 2016) (noting "near unanimity" that intermediate scrutiny is appropriate when considering regulations that fall within the scope of the Second Amendment). Even if strict scrutiny applies, Masters failed to allege facts sufficient to show that the statute is not narrowly drawn to serve a compelling state interest. *See Green v. City of Tucson*, 340 F.3d 891, 896 (9th Cir. 2003) (explaining strict scrutiny); *cf. Dist. of Columbia v. Heller*, 554 U.S. 570, 626-27, 627 n.1 (2008) (explaining that the right secured by the Second Amendment is not unlimited; setting forth nonexhaustive list of presumptively lawful regulatory measures).

Dismissal of Masters's facial and as-applied procedural due process challenges was proper because Masters failed to allege facts sufficient to state a plausible claim. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678, 681 (2009) (to avoid

**APPENDIX C. Denial of Petition for Panel Rehearing**

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**FILED**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JUL 1 2021

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

WILLIAM A. MASTERS II,

Plaintiff-Appellant,

v.

ROB BONTA, in his official capacity as the  
Attorney General of the State of California,

Defendant-Appellee.

No. 19-55757

D.C. No. 2:19-cv-02030-MWF-  
AGR

Central District of California,  
Los Angeles

ORDER

Before: GRABER, R. NELSON, and FORREST,\* Circuit Judges.

Masters's petition for panel rehearing (Docket Entry No. 23) is denied.

No further filings will be entertained in this closed case.

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\* Formerly known as Danielle J. Hunsaker.