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Memorandum filed on August 21, 2023
United States Court of Appeals
For the Ninth Circuit

1 of 2

FILED

AUG 21 2023

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

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

EURHO JOE,
Plaintiff,
v.
SUPREME COURT
OF CALIFORNIA,
Defendant.

No. 22-16224
D.C. No. 5:22-vc-03155-SVK
MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Susan G. Van Keulen, Magistrate Judge, Presiding*
Submitted August 15, 2023**

Before: TASHIMA, S.R. THOMAS, and FORREST,
Circuit Judges.

Eurho Joe appeals pro se from the district court's
order dismissing his 42 U.S.C. § 1983 action alleging

* This deposition is not appropriate for publication and is not
precedent except as provided by Ninth Circuit Rule 36.3.

** The parties consented to proceed before a magistrate judge.
See 28 U.S.C. § 636(c).

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

various claims arising out of his state court custody proceedings. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under Federal Rule of Civil Procedure 12(b)(1). *Arrington v. Wong*, 237 F.3d 1066, 1069 (9th Cir. 2001). We affirm.

The district court properly dismissed Joe's action because his claims are barred by the *Rooker-Feldman* doctrine. See *Cooper v. Ramos*, 704 F.3d 772, 777- 78 (9th Cir. 2012) (explaining that the *Rooker-Feldman* doctrine bars district courts from exercising jurisdiction over actual or de facto appeals of state court decisions).

The district court did not abuse its discretion by dismissing Joe's action without leave to amend because amendment would be futile. See *Cervantes v. Countrywide Home Loans*, 656 F.3d 1034, 1041 (9th Cir. 2011) (setting forth standard of review and explaining that a district court may deny leave to amend if amendment would be futile).

The district court did not abuse its discretion by denying Joe's application for entry of default because defendant filed a motion to dismiss. See Fed. R. Civ. P. 55 (a) (providing for entry of default when a defendant "has failed to plead or otherwise defend"); *Speiser, Krause & Madole P.C. v. Ortiz*, 271 F.3d 884, 886 (9th Cir. 2001) (setting forth standard of review).

Joe's request for default judgment, set forth in the reply brief, is denied.

AFFIRMED.

Case No. 22-vc-03155-SVK Document 13 Filed
07/15/22

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EURHO JOE,
Plaintiff,
v.
SUPREME
COURT
OF CALIFORNIA,
Defendant.

Case No. 22-vc-03155-SVK

**ORDER DENYING
MOTION FOR DEFAULT;
VACATING HEARING ON
MOTION TO DISMISS**

Re: Dot. Nos. 7,11

The Court is in receipt of Plaintiff Eurho Joe's ("Plaintiff") Notice of Default and Application for Entry of Default Against Defendant Pursuant to Rule 55(a) of the Federal Rules of Civil Procedure. Dkt. 11. Contrary to Plaintiff's contention, Defendant Supreme Court of California ("Defendant") has responded to the Complaint by filing a Motion to Dismiss [Dkt. 7], which Plaintiff has opposed [Dkts. 9, 10]. The Court notes, however, that Defendant's motion to dismiss was filed three days after the deadline for responding to the Complaint. Dkts. 5, 7. In future, the Court may not grant a grace period if either Party fails to meet the operative deadline.

1 Because Defendant has responded to the
2 Complaint, the request for entry of default is
3 **DENIED**. The Motion to Dismiss is appropriate
4 for determination without oral argument. Civil
5 L.R. 7-1(b). Accordingly, the Court **VACATES**
6 the August 2, 2022 hearing on the Motion to
7 Dismiss but will re-set the hearing if needed.

8 SO ORDERED

9
10 Dated: July 15, 2022

s/Susan Van

11 Keulen

Susan Van

12
13 Keulen

United States

14
15 Magistrate Judge

**Additional material
from this filing is
available in the
Clerk's Office.**