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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
US.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NOT FOR PUBLICATION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).

Memorandum filed on August 21, 2023

United States Court of Appeals
For the Ninth Circuit

2 of 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.

App. 2

1 Case No. 22-vc-03155-SVK Document 13 Filed
2 07/15/22

3
4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA
6

7 EURHO JOE,
8 Plaintiff,
9 v.
10 SUPREME
11 COURT
12 OF CALIFORNIA,
13 Defendant.

Case No. 22-vc-03155-SVK
**ORDER DENYING
MOTION FOR DEFAULT;
VACATING HEARING ON
MOTION TO DISMIS**

14 Re: Dot. Nos. 7,11
15

16 The Court is in receipt of Plaintiff Eurho Joe's
17 ("Plaintiff") Notice of Default and Application for
18 Entry of Default Against Defendant Pursuant to
19 Rule 55(a) of the Federal Rules of Civil
20 Procedure. Dkt. 11. Contrary to Plaintiff's
21 contention, Defendant Supreme Court of
22 California ("Defendant") has responded to the
23 Complaint by filing a Motion to Dismiss [Dkt. 7],
24 which Plaintiff has opposed [Dkts. 9, 10]. The
25 Court notes, however, that Defendant's motion to
26 dismiss was filed three days after the deadline
27 for responding to the Complaint. Dkts. 5, 7. In
28 future, the Court may not grant a grace period if
29 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 Keulen United States
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14 Magistrate Judge
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**Additional material
from this filing is
available in the
Clerk's Office.**