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As of: December 23, 2025 7:06 PM Z

**Milgrim v. Garcia**

United States Court of Appeals for the Ninth Circuit

July 16, 2025\*\*, Submitted, Pasadena, California; July 18, 2025, Filed

No. 24-1836

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

**Reporter**

2025 U.S. App. LEXIS 17856 \*; 2025 LX 276933; 2025 WL 2017471

JARED RYAN MILGRIM, an individual, Plaintiff - Appellant, v. ALFREDO GARCIA, an individual; Doctor KIRAN KAMAT, an individual; DIGNITY HEALTH, a California corporation, for Northridge Hospital Medical Center; LOS ANGELES POLICE DEPARTMENT, Defendants - Appellees, and ELAIN LEVY, an individual, ENOSH MORIAH, an individual, Doctor JAMES QUINES, an individual, OLIVE VIEW - UCLA MEDICAL CENTER FOUNDATION, INC., a California Non-Profit Corporation, DOES, Defendants.

**Notice:** PLEASE REFER TO *FEDERAL RULES OF APPELLATE PROCEDURE RULE 32.1* GOVERNING THE CITATION TO UNPUBLISHED OPINIONS.

**Prior History:** [\*1] Appeal from the United States District Court for the Central District of California. D.C. No. 2:19-cv-07087-JWH-AS. John W. Holcomb, District Judge, Presiding.

[Milgrim v. LeVy, 2022 U.S. Dist. LEXIS 210740, 2022 WL 17080162 \(C.D. Cal., Mar. 10, 2022\)](#)

[Milgrim v. Levy, 2022 U.S. Dist. LEXIS 201580, 2022 WL 17080141 \(C.D. Cal., Nov. 3, 2022\)](#)

[Milgrim v. Elain Levy, 2022 U.S. Dist. LEXIS 151194, 2022 WL 3574403 \(C.D. Cal., Apr. 15, 2022\)](#)

**Disposition:** AFFIRMED.

**Core Terms**

statute of limitations

**Case Summary****Overview****Key Legal Holdings**

- The district court did not abuse its discretion in dismissing claims against certain defendants based on Milgrim's failure to timely file opposition under Local Rule 7-12.
- The district court did not abuse its discretion in denying Milgrim's request to amend his complaint to add Officer Fernandez due to undue delay, potential prejudice, and repeated

failure to cure deficiencies.

- The district court did not abuse its discretion in refusing to modify its scheduling order to add unnamed defendants ("Does 1-4") as Milgrim failed to demonstrate diligence or good cause.
- Milgrim's [42 U.S.C.S. §1983](#) claims against Officer Garcia were time-barred by California's two-year statute of limitations, and did not relate back to earlier complaints.

**Material Facts**

- The underlying conduct occurred on April 27, 2017. Milgrim filed multiple amended complaints, including a third amended complaint on July 5, 2019, which first named Officer Garcia as a defendant. Milgrim received documents from the Los Angeles Police Department in December 2017 detailing Officer Garcia's involvement. Dr. Kamat filed a motion to dismiss on February 14, 2022, which Dignity Health joined. Milgrim's opposition was due February 22, 2022, but was filed late on February 28, 2022. Milgrim sought to add Officer Fernandez as a defendant on December 7, 2021, and four other officers on March 7, 2022.

**Controlling Law**

- Local Rules of the Central District of California, particularly Rules 7-9 and 7-12 regarding motion practice and deadlines.
- [42 U.S.C.S. § 1983](#).
- Cal. Code Civ. P. § 355.1.
- [Cal. Code Civ. P. § 474](#).
- [Federal Rule of Civil Procedure 6\(a\)](#).
- [Fireman's Fund Ins. Co. v. Sparks Constr., Inc., 114 Cal. App. 4th 1135, 8 Cal. Rptr. 3d 446, 452 \(Ct. App. 2004\)](#).
- [Lockett v. City of Los Angeles, 977 F.3d 737, 740 \(9th Cir. 2020\)](#).
- [Ghazali v. Moran, 46 F.3d 52, 53 \(9th Cir. 1995\)](#).
- [Johnson v. Mammoth Recreations, 975 F.2d 604,](#)

[607 \(9th Cir. 1992\).](#)

- *Frlekin v. Apple, Inc.*, 979 F.3d 639, 643 (9th Cir. 2020).

### Court Rationale

Regarding dismissal under local rules: The court applied the Ghazali factors and found no abuse of discretion, noting Milgrim's repeated failures to follow local rules despite the district court's reminders. Regarding denial of amendment to add Officer Fernandez: The court found Milgrim had notice of Fernandez's existence by December 2017 or October 2019 at the latest, constituting undue delay. Adding a new defendant in a fourth amended complaint would cause undue prejudice. Regarding denial to add Does 1-4: Milgrim added unnamed defendants despite the district court's admonition not to do so and moved out-of-time for leave to add them, failing to demonstrate diligence or good cause. Regarding statute of limitations for claims against Officer Garcia: The underlying conduct occurred on April 27, 2017, making the deadline for filing April 27, 2019. Milgrim did not name Garcia until July 5, 2019. The relation-back doctrine did not apply because Milgrim's earlier complaints did not allege ignorance of Garcia's name, and evidence showed Milgrim knew Garcia's name before the limitations period expired.

### Outcome

#### Procedural Outcome

The Ninth Circuit affirmed the district court's dismissal of claims against certain defendants based on local rules, denial of Milgrim's request to amend his complaint to add new defendants, and grant of summary judgment on the 42 U.S.C.S. §1983 claim against Officer Garcia due to statute of limitations.

## LexisNexis® Headnotes

Civil Procedure > Appeals > Standards of Review > Abuse of Discretion

Civil Procedure > ... > Summary Judgment > Appellate Review > Standards of Review

Civil Procedure > Pretrial Matters > Conferences > Scheduling Conferences

Civil Procedure > Appeals > Standards of Review > De Novo Review

Civil Procedure > ... > Pleadings > Amendment of Pleadings > Leave of Court

### [HN1](#) [↓] Standards of Review, Abuse of Discretion

An appellate court will review for abuse of discretion a district court's dismissal pursuant to its local rules, its denial of leave to amend, and its denial of a request to modify a scheduling order. An appellate court will review a district court's order granting summary judgment de novo.

Civil Procedure > Pleading & Practice > Motion Practice > Content & Form

### [HN2](#) [↓] Motion Practice, Content & Form

After a party files a motion, the Local Rules of the Central District of California provide that each opposing party shall, not later than twenty-one (21) days before the date designated for the hearing of the motion, file an opposing brief and all supporting evidence. *C.D. Cal. R. 7-9.*

Civil Procedure > Pleading & Practice > Motion Practice > Time Limitations

### [HN3](#) [↓] Motion Practice, Time Limitations

Local Rule 7-12 provides that the failure to file any required document within the deadline may be deemed consent to the granting of the motion. *C.D. Cal. Loc. R. 7-12.*

Civil Procedure > ... > Affirmative Defenses > Statute of Limitations > Borrowing Statutes

Torts > Procedural Matters > Statute of Limitations > Borrowing Statutes

Civil Rights Law > Protection of Rights > Procedural Matters > Statute of Limitations

Governments > Legislation > Statute of Limitations > Time Limitations

Governments > Legislation > Statute of Limitations > Tolling

#### [HN4](#) Statute of Limitations, Borrowing Statutes

[42 U.S.C.S. 1983](#) claims borrow the forum state's statute of limitation for personal injury actions, including tolling provisions. California's statute of limitations is two years. Cal. Civ. Proc. Code 355.1 (West 2003).

Civil Procedure > Parties > Real Party in Interest > Fictitious Names

Civil Procedure > ... > Pleadings > Amendment of Pleadings > Relation Back

#### [HN5](#) Real Party in Interest, Fictitious Names

In California, a complaint with a claim against a late-named defendant may relate back to an earlier-filed complaint if (1) the complaint states a cause of action against each Doe defendant; (2) it alleges that the plaintiff is ignorant of the Doe defendant's name; (3) the plaintiff is actually ignorant of the Doe defendant's name; and (4) the plaintiff amends the complaint accordingly upon discovering the Doe defendant's true name. [Cal. Civ. Proc. Code 474](#).

**Counsel:** For JARED RYAN MILGRIM, an individual, Plaintiff - Appellant: Mr. Brett A. Greenfield, Brett A. Greenfield, Esq., Woodland Hills, CA; Donald Norris, Donald Norris, a Law Corporation, Los Angeles, CA.

For ALFREDO GARCIA, an individual, Defendant - Appellees Mr. Brian Cheng, Los Angeles Office of the City Attorney, Los Angeles, CA.

For KIRAN KAMAT, an individual, Defendant - Appellee: Zena Jacobsen, Cole Pedroza, LLP, San Marino, CA; Mrs. Gillian Pluma, La Follette, Johnson, DeHaas, Fesler & Ames, Glendale, CA.

For DIGNITY HEALTH, a California corporation, for Northridge Hospital Medical Center, Defendant - Appellee: Corinne Bertsche, Mr. Jeffrey A. Miller, Lewis Brisbois Bisgaard & Smith, LLP, San Diego, CA; Gregory G. Lynch, Jason R. Chermela, Lewis Brisbois Bisgaard & Smith, LLP, Los Angeles, CA.

For LOS ANGELES POLICE DEPARTMENT, Defendant - Appellee: Mr. Brian Cheng, Deputy City Attorney, Los Angeles Office of the City Attorney, Los Angeles, CA.

**Judges:** Before: WARDLAW, MENDOZA, and JOHNSTONE, Circuit Judges.

## Opinion

### MEMORANDUM\*

Jared Milgrim [\*2] appeals the district court's dismissal of his claims against certain defendants based upon the application of its local rules, denial of his request to amend his complaint to add new defendants, and grant of summary judgment as to his claim arising under [42 U.S.C. § 1983](#) against one defendant owing to the statute of limitations. We have jurisdiction under [28 U.S.C. § 1291](#). [HN1](#) We review for abuse of discretion a district court's dismissal pursuant to its local rules, [Ghazali v. Moran, 46 F.3d 52, 53 \(9th Cir. 1995\)](#) (per curiam), its denial of leave to amend, [Brown v. Stored Value Cards, Inc., 953 F.3d 567, 573 \(9th Cir. 2020\)](#), and its denial of a request to modify a scheduling order, [Johnson v. Mammoth Recreations, 975 F.2d 604, 607 \(9th Cir. 1992\)](#). We review a district court's order granting summary judgment de novo. [Frlekin v. Apple, Inc., 979 F.3d 639, 643 \(9th Cir. 2020\)](#). We affirm.

1. [HN2](#) After a party files a motion, the Local Rules of the Central District of California provide that "[e]ach opposing party shall, . . . not later than twenty-one (21) days before the date designated for the hearing of the motion . . . [,] file" an opposing brief and all supporting evidence. *C.D. Cal. R. 7-9*. Dr. Kiran Kamat filed his motion to dismiss (which Dignity Health joined on the same day) on February 14, 2022, noticed for hearing on March 14, 2022. Milgrim's opposition was due February 22, 2022. See [Fed. R. Civ. P. 6\(a\)](#) (factoring in holidays); *C.D. Cal. R. 7-9*. He filed his opposition on February 28, 2022. [HN3](#) Local Rule 7-12 provides [\*3] that "[t]he failure to file any required document . . . within the deadline[] may be deemed consent to the granting . . . of the motion." *C.D. Cal. R. 7-12*. Citing Local Rule 7-12, the district court deemed Milgrim's failure to timely oppose as consent and granted Dr. Kamat's motion to dismiss.

In light of the [Ghazali](#) factors and upon independent review of the record, we find no abuse of discretion in the district court's application of the local rules. [46 F.3d at 53](#) (listing five factors).<sup>1</sup>

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

<sup>1</sup> Any notion that Milgrim was unfairly confused by deadlines

2. On December 7, 2021, Milgrim sought leave to add Officer Joshua Fernandez as a defendant. Then on March 7, 2022, Milgrim sought leave and to add "four other on-scene officers" as defendants. With regard to Officer Fernandez, the record supports that, by December 2017, at the earliest, or October 2019, at the latest, Milgrim had notice of his existence and participation in the underlying events. Moreover, Milgrim sought to add Officer Fernandez, an entirely new defendant, in a *fourth* amended complaint. Therefore, the district court did not abuse its discretion in light of Milgrim's undue delay, the potential for undue prejudice, and Milgrim's repeated failure to cure deficiencies in prior amendments. See *Brown*, 953 F.3d at 574.

With regard to "Does 1-4," Milgrim added [\*4] the unnamed defendants in his fourth amended complaint, in spite of the district court's admonition not to do so. Milgrim then moved out-of-time for leave to add them. We find no abuse of discretion in the district court's refusal to modify its scheduling order, as the record supports that Milgrim was not diligent and failed to demonstrate good cause. See *Johnson*, 975 F.2d at 608.

3. The underlying conduct in this case occurred on April 27, 2017. Milgrim did not name Officer Alfredo Garcia as a defendant until he filed the third amended complaint on July 5, 2019. [HN4](#) [↑] [Section 1983](#) claims borrow the forum state's statute of limitation for personal injury actions, including tolling provisions. *Lockett v. City of Los Angeles*, 977 F.3d 737, 740 (9th Cir. 2020). California's statute of limitations is two years. See *id.*; Cal. Code Civ. P. § 355.1 (West 2003). Therefore, the statute of limitations period ran out on Milgrim's claims against Officer Garcia on April 27, 2019, more than two months before Milgrim filed the third amended complaint.

Milgrim contends that his claims against Officer Garcia relate back to his earlier and timely-filed complaints because, when he filed those complaints, he mistakenly believed that Officer Garcia was "James Quines." [HNS](#) [↑] In California,<sup>2</sup> a complaint with a claim against a

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as noted in scheduling orders is belied by the district court's constant reminders that the local rules control and Milgrim's repeated failures to follow them.

<sup>2</sup>The district court applied California's relation-back rules, which Milgrim does not contest on appeal. See *Butler v. Nat'l Cmty. Renaissance of Cal.*, 766 F.3d 1191, 1200 (9th Cir. 2014) (state law of relation back governs when more lenient than the federal rules).

late-named defendant [\*5] may relate back to an earlier-filed complaint if (1) the complaint states a cause of action against each Doe defendant; (2) it alleges that the plaintiff is ignorant of the Doe defendant's name; (3) the plaintiff is actually ignorant of the Doe defendant's name; and (4) the plaintiff amends the complaint accordingly upon discovering the Doe defendant's true name. *Fireman's Fund Ins. Co. v. Sparks Constr., Inc.*, 114 Cal. App. 4th 1135, 8 Cal. Rptr. 3d 446, 452 (Ct. App. 2004) (citations omitted); *Cal. Code Civ. P. § 474* (West 1955).

There is no genuine dispute that Milgrim's timely-filed complaints failed to allege that he was ignorant of Officer Garcia's name or otherwise state a claim against Officer Garcia in all but name. Further, there is no genuine dispute that Milgrim actually knew Officer Garcia's name prior to the end of the limitations period, given that he admits he received a document from the Los Angeles Police Department in December 2017 that detailed Officer's Garcia's involvement in the underlying events. See *Fireman's Fund*, 8 Cal. Rptr. 3d at 452.

**AFFIRMED.**

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