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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

AHMAD RAHEEM PRICE,
Plaintiff
v.
RUSLAN YERAMISHYN, et al.,
Defendants.

Case No. 5:23-cv-00608-JLS (GJS)

**ORDER ACCEPTING IN PART
FINDINGS AND
RECOMMENDATIONS OF
UNITED STATES MAGISTRATE
JUDGE**

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Third Amended Complaint (Doc. 54), all relevant documents filed and lodged in this action, Defendants’ motion to dismiss the Third Amended Complaint (Doc. 55), and all related briefing (Docs 57-58), and the Report and Recommendation of United States Magistrate Judge (Doc. 60, “R&R”). The time for filing Objections to the Report has passed and no Objections have been filed.

Having completed its review, *and subject to the discussion, below*, the Court accepts part the findings, conclusions, and recommendations set forth in the Report.

1 First, the Court declines to adopt the alternative basis for the ruling on the
2 timeliness of Defendant’s claims. (R&R, Doc. 60 at 9-10.) Specifically, the R&R
3 states that the relation-back doctrine of Federal Rule of Civil Procedure 15(a) would
4 apply to Plaintiff’s claims. This alternative basis is unnecessary to the conclusions
5 reached regarding the timeliness of Plaintiff’s claims, and therefore the Court
6 declines to adopt it.

7
8 Second, although the Court agrees with the first conclusion reached by the
9 Magistrate Judge set forth in footnote 3, it does so on a different rationale. (See
10 R&R at 9 n.3.) Specifically, the Court agrees with R&R’s conclusion that, despite
11 mixed case law on the issue, the tolling provision for inmates (found at California
12 Code of Civil Procedure § 352.1) applies to the claims of pretrial detainees. But the
13 Court does so on its more fulsome analysis set forth in *Venegas v. Cnty. of*
14 *Riverside*, No. 5:18-CV-02293-JLS-SHK, 2025 WL 1409580, at *2-6 (C.D. Cal.
15 May 13, 2025).

16
17 In *Venegas*, because the California Supreme Court had not (and has not) ruled
18 on § 352.1’s applicability to the claims of pretrial detainees, a tension arose as to
19 whether a Ninth Circuit opinion was still binding on federal district courts in the
20 face of an intermediate state appellate decision that held to the contrary. *See id.* at
21 *3-4 (discussing *Elliott v. City of Union City*, 25 F.3d 800, 802-03 (9th Cir. 1994)
22 and *Austin v. Medicis*, 21 Cal.App.5th 577 (2018)). This Court first defined the
23 proper legal standard for resolving this tension. In the absence of authority from the
24 state’s highest court, an intermediate state appellate decision is ““a datum for
25 ascertaining state law”” that must be considered along with other sources to
26 ““ascertain from all the available data what the state law is.”” *Id.* at *4 (quoting
27 *West v. Am. Tel. & Tel. Co.*, 311 U.S. 223, 236-37 (1940)); *see also Vestar Dev. II,*
28 *LLC v. Gen. Dynamics Corp.*, 249 F.3d 958, 960 (9th Cir. 2001). Where a court is

1 “convinced by other persuasive data that the highest court of the state would decide”
2 contrary to the state intermediate appellate decision, such a decision is not binding
3 on the federal court. *West*, 311 U.S. at 237.

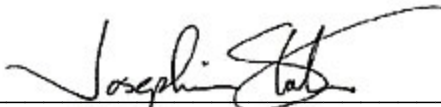
4
5 After determining the proper legal standard, this Court held that *Austin’s*
6 interpretation of § 352.1 as inapplicable to pretrial detainees was at odds with
7 fundamental rules of statutory construction as adopted by the California Supreme
8 Court. *Venegas*, 2025 WL 1409580 at *4-6. And having rejected *Austin’s*
9 interpretation as contrary to California Supreme Court authority, this Court applied
10 the controlling Ninth Circuit authority and held that § 352.1 applied to toll a pretrial
11 detainee’s claims for up to two years. *Id.*

12
13 Based on this rationale, the Court adopts the conclusion, set forth in footnote
14 3 of the R&R, that *Elliot* controls and that the California Code of Civil Procedures
15 § 352.1 applies to toll the limitations periods of claims asserted by pretrial detainees.

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17 Accordingly, **IT IS ORDERED** that: the Motion is DENIED; and
18 Defendants shall file and serve an Answer to the Third Amended Complaint within
19 30 days of this Order.

20
21 **IT IS SO ORDERED.**

22 DATE: August 3, 2025

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24 _____
25 JOSEPHINE L. STATON
26 UNITED STATES DISTRICT JUDGE
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