

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Edwin Solorzano Perez v. Contra Costa County Sheriff Department,
et al.

Perez · No. 23-cv-04749-JSW · Decided March 24, 2025

SUMMARY

The United States District Court for the Northern District of California granted Defendants’ unopposed motion for summary judgment in a prisoner civil-rights action concerning alleged lack of non-slip footwear and inadequate medical care. The court held that Plaintiff failed to exhaust available administrative remedies under the Prison Litigation Reform Act and dismissed the claims without prejudice.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Jeffrey S. White
JURISDICTION	United States District Court for the Northern District of California
DECIDED	March 24, 2025
DOCKET	23-cv-04749-JSW
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff brought a civil-rights action under 42 U.S.C. § 1983 concerning conditions of confinement. Defendant moved for summary judgment based in part on failure to exhaust administrative remedies. Plaintiff did not oppose the motion.
STANDARD OF REVIEW	Summary judgment is proper when the pleadings, discovery, and affidavits show no genuine dispute of material fact and the movant is entitled to judgment as a matter of law. The evidence must be viewed in the light most favorable to the nonmoving party. An unopposed motion cannot be granted solely because it is unopposed; the movant's papers must independently establish entitlement to judgment and reveal no genuine dispute of material fact.
PRECEDENTIAL VALUE	Unknown; district-court order with no published reporter citation

PARTIES

Edwin Solorzano Perez v. Contra Costa County Sheriff Department, et al.

TOPICS

section 1983 prisoners rights summary judgment civil procedure

PRACTICE AREAS

civil rights prisoner litigation civil procedure

QUESTIONS PRESENTED

1. Whether Defendant was entitled to summary judgment because Plaintiff failed to exhaust available administrative remedies under the Prison Litigation Reform Act.
2. Whether the unopposed summary-judgment motion could be granted solely because Plaintiff failed to oppose it.
3. Whether Plaintiff's general history of filing grievances or asserted futility excused exhaustion of the claims at issue.

HOLDINGS

1. A district court may not grant an unopposed motion for summary judgment solely on the basis that it is unopposed; the movant's papers must themselves establish that there is no genuine issue of material fact and that the movant is entitled to judgment as a matter of law.
2. Because undisputed evidence showed that Plaintiff did not pursue available administrative remedies concerning the lack of non-slip footwear or inadequate medical care for his back injury, Defendant was entitled to summary judgment under the PLRA.
3. A prisoner's belief that pursuing the grievance process would be futile, or a generalized history of filing grievances, does not excuse failure to exhaust available administrative remedies for the specific claims asserted.

KEY QUOTATIONS

"Where, as here, a summary judgment is unopposed, a district court may not grant the motion solely on that basis." (1)

"Exhaustion is mandatory and not left to the discretion of the district court." (2)

"As there is no dispute that Plaintiff did not pursue his available administrative remedies regarding his claims, there are no triable issues that preclude granting Defendant's motion for summary judgment on exhaustion grounds." (2)

FACTUAL BACKGROUND

Plaintiff alleged that he fell and injured his back while cleaning at the county jail. He claimed that the Sheriff's Department's policies caused him not to receive non-slip footwear and adequate medical care. The Department presented evidence that Plaintiff did not file a formal grievance or appeal concerning either the footwear or medical-care claims, and Plaintiff submitted no contrary evidence.

PROCEDURAL HISTORY

Plaintiff, a California prisoner proceeding pro se, filed an original complaint and then an unverified amended complaint alleging that jail policies caused him not to receive non-slip footwear while cleaning and that he received inadequate medical care for a back injury. Defendant moved for summary judgment. The district court considered the verified original complaint as evidence to the extent based on personal knowledge, granted the motion on exhaustion grounds, dismissed the claims without prejudice, and directed the Clerk to enter judgment and close the file.

DISPOSITION

dismissed

CASES CITED

- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986)
- Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986)
- Tolan v. Cotton, 134 S. Ct. 1861, 1865 (2014)
- Hunt v. Cromartie, 526 U.S. 541, 552 (1999)
- Cristobal v. Siegel, 26 F.3d 1488, 1494-95 & n.4 (9th Cir. 1994)
- Carmen v. San Francisco Unified School District, 237 F.3d 1026, 1029 (9th Cir. 2001)
- Schroeder v. McDonald, 55 F.3d 454, 460 & nn.10-11 (9th Cir. 1995)
- Albino v. Baca, 747 F.3d 1162, 1166 (9th Cir. 2014) (en banc)
- Woodford v. Ngo, 548 U.S. 81, 84 (2006)
- Booth v. Churner, 532 U.S. 731, 739, 741 n.6 (2001)
- Ross v. Blake, 578 U.S. 632, 638 (2016)

OPINION

Perez v. Contra Costa County Sheriff Department

PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 EDWIN SOLORZANO PEREZ, Case No. 23-cv-04749-JSW 8 Plaintiff,

ORDER GRANTING MOTION FOR

9 v. SUMMARY JUDGMENT

INTRODUCTION

13 Plaintiff, a California prisoner proceeding pro se, filed this civil rights complaint under 42 U.S.C. § 1983 against Contra Costa County Sheriff's Department regarding the conditions of his confinement at the county jail. Defendant filed a motion for summary judgment arguing, inter alia, Plaintiff did not exhaust his administrative remedies. Plaintiff did not file an opposition despite being warned of the potential adverse consequences of not doing so. For the reasons discussed below, the motion for summary judgment is GRANTED.

DISCUSSION

20 I. Standard of Review 21 Summary judgment is proper where the pleadings, discovery and affidavits show that there is "no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). Material facts are those which may affect the outcome of the case. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A dispute as to a material fact is genuine if there is sufficient evidence for a reasonable jury to return a verdict for the nonmoving party. *Id.* 27 The moving party for summary judgment bears the initial burden of identifying those issues of material fact. *Celotex Corp. v. Cattrett*, 477 U.S. 317, 323 (1986). When the moving party has met this burden of production, the nonmoving party must go beyond the pleadings and, by its own affidavits or discovery, set forth specific facts showing that there is a genuine issue for trial. *Id.* If the nonmoving party fails to produce enough evidence to show a genuine issue of material fact, the moving party wins. *Id.* 6 At summary judgment, the judge must view the evidence in the light most favorable to the nonmoving party. *Tolan v. Cotton*, 134 S. Ct. 1861, 1865 (2014). If more than one reasonable inference can be drawn from undisputed facts, the trial court must credit the inference in favor of the nonmoving party. *Hunt v. Cromartie*, 526 U.S. 541, 552 (1999). 10 Where, as here, a summary judgment is unopposed, a district court may not grant the motion solely on that basis. *Cristobal v. Siegel*, 26 F.3d 1488, 1494-95 & n.4 (9th Cir. 1994). The court may, however, grant an unopposed motion for summary judgment if the movant's papers are themselves sufficient to support the motion and do not on their face reveal a genuine issue of material fact. See *Carmen v. San Francisco Unified School District*, 237 F.3d 1026, 1029 (9th Cir. 2001). A verified complaint may be used as an opposing affidavit under Rule 56, as long as it

16 is based on personal knowledge and sets forth specific facts admissible in evidence. See *Schroeder v. McDonald*, 55 F.3d 454, 460 & nn.10-11 (9th Cir. 1995). The operative complaint, the amended complaint, is not verified, but the original complaint is. 19 Exhaustion must ordinarily be decided in a summary judgment motion. *Albino v. Baca*, 20 F.3d 1162, 1166 (9th Cir. 2014) (en banc). If undisputed evidence viewed in the light most favorable to the prisoner shows a failure to exhaust, a defendant is entitled to summary judgment 22 under Rule 56. *Id.* at

1166. 23 II. Analysis 24 Plaintiff claims he fell and injured his back when he was cleaning the show. He claims 25 Defendant violated his rights its policies caused him not to receive non-slip footwear while 26 cleaning and not to receive adequate medical care for his injuries. Defendant has presented 27 evidence that Plaintiff did not pursue these claims through his available administrative remedies. 1 The PLRA provides that "[n]o action shall be brought with respect to prison conditions 2 under [42 U.S.C. § 1983], or any other Federal law, by a prisoner confined in any jail, prison, or 3 other correctional facility until such administrative remedies as are available are exhausted." 42 4 U.S.C. § 1997e(a). Exhaustion is mandatory and not left to the discretion of the district court. 5 Woodford v. Ngo, 548 U.S. 81, 84 (2006) (citing Booth v. Churner, 532 U.S. 731, 739 (2001)). 6 Courts may not create their own "special circumstances" exceptions to the exhaustion 7 requirement. Ross v. Blake, 578 US. 632, 638 (2016). 8 The Contra Costa County Sherriff's Department's procedures for inmates to pursue 9 administrative remedies for the conditions of their confinement begin with an informal oral 10 complaint to jail personnel, followed by a formal written grievance, and then an appeal to 11 progressive levels of the jail's chain of command. Defendant has presented evidence that Plaintiff 12 never filed a formal grievance or appeal regarding the lack of non-slip footwear or inadequate 13 medical care for his back injury. Plaintiff has presented no evidence to the contrary. In his 14 original (verified) complaint,¹ he states he wrote "many" grievances, but the "issue always 15 continues," or "sometimes they don't answer." (ECF No. 1 at 2.) Notably, Plaintiff does not state 16 he presented any administrative grievances or appeals regarding the claims herein, i.e. the non-slip 17 shoes and medical care for his back injury. Moreover, the court may not will not read futility or 18 other exceptions into statutory exhaustion requirement" Booth, 532 U.S. at 741 n.6. To the extent 19 Plaintiff asserts his history of pursuing administrative remedies at the jail convinced him doing so 20 regarding his claims here would be futile, this does not excuse his failure to exhaust. 21 As there is no dispute that Plaintiff did not pursue his available administrative remedies 22 regarding his claims, there are no triable issues that preclude granting Defendant's motion for 23 summary judgment on exhaustion grounds.²

24 CONCLUSION

25 1 The amended complaint is not verified and does not address exhaustion. Although the original 26 complaint was superseded by his amended complaint, as it was verified and out of an abundance of caution, the Court considers the factual allegations therein to be evidence to the extent they are 27 based upon Plaintiff's personal knowledge.] For the foregoing reasons, Defendants' motion for summary judgment is GRANTED, and 2 || Plaintiffs claims are DISMISSED without prejudice. 3 The Clerk shall enter judgment and close the file. 4 This order disposes of Docket No. 35. 5 IT IS SO ORDERED. 6 Dated: March 24, 2025 "[C/ [] 8 \ 1 / f/f JEY REY S. WHITE

9 fs Upfted State// District Judge 10 / 1] 13 16 Oo Z 18 19 20 21 22 23 24 25 26 27 28

