

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Taylor v. Gordan

Taylor · No. 2:24-cv-0403 CKD P · Decided February 25, 2025

SUMMARY

The United States District Court for the Eastern District of California screens a state prisoner's amended 42 U.S.C. § 1983 complaint concerning opened legal mail, threatened disciplinary proceedings, and confiscated food. Magistrate Judge Carolyn K. Delaney recommends dismissal for failure to state a claim and closure of the case, finding that a further opportunity to amend would be futile.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 ARTHUR TAYLOR, No. 2:24-cv-0403 CKD P 12 Plaintiff, 13 v. ORDER
AND 14 GORDAN, et al., FINDINGS AND RECOMMENDATIONS 15 Defendants. 16 17
Plaintiff is a state prisoner proceeding pro se and seeking relief pursuant to 42 U.S.C. § 18 1983.

On September 19, 2024, plaintiff's complaint was dismissed with leave to file an amended 19
complaint. Plaintiff has filed an amended complaint. 20 The court is required to screen complaints
brought by prisoners seeking relief against a 21 governmental entity or officer or employee of a
governmental entity. 28 U.S.C. § 1915A(a).

The 22 court must dismiss a complaint or portion thereof if the prisoner has raised claims that are
legally 23 "frivolous or malicious," that fail to state a claim upon which relief may be granted, or
that seek 24 monetary relief from a defendant who is immune from such relief. 28 U.S.C. §
1915A(b)(1),(2). 25 Plaintiff complains about events occurring at the California Medical Facility
including a 26 single instance of his outgoing legal mail being opened, being threatened with
prisoner 27 disciplinary proceedings and, following a search, food being confiscated and thrown
on the 28 ground.

Plaintiff makes other allegations that are either vague or incomprehensible.] Nothing in plaintiff's
complaint amounts to a claim upon which plaintiff can proceed. 2 || The Eighth Amendment
affords plaintiff the right not to be subjected to cruel and unusual 3 || punishment, but nothing he
alleges approaches a violation of the Eighth Amendment.

The 4 || Constitution "does not mandate comfortable prisons." Rhodes v. Chapman, 452 U.S. 337,
349 5 || (1981). De minimus harm, such as that described by plaintiff, is not protected under the 6

|| Constitution. McKune v. Lile, 536 U.S. 24, 41 (2002). 7 For these reasons, plaintiff's amended complaint fails to state a claim upon which plaintiff 8 || can proceed.

The court has already given plaintiff an attempt to cure the defects in his pleadings 9 || and plaintiff has not been able to do so. Granting a second attempt appears futile. 10 In accordance with the above, IT IS HEREBY ORDERED that the Clerk of the Court 11 | assign a district court judge to this case. 12 IT IS HEREBY RECOMMENDED that: 13 1. Plaintiff's amended complaint be dismissed; and 14 2.

This case be closed. 15 These findings and recommendations are submitted to the United States District Judge 16 || assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days 17 || after being served with these findings and recommendations, plaintiff may file written objections 18 || with the court.

The document should be captioned "Objections to Magistrate Judge's Findings 19 | and Recommendations." Plaintiff is advised that failure to file objections within the specified 20 || time waives the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th 21 | Cir. 1991). 22 | Dated: February 24, 2025 / Lae / a ly. ae 8 CAROLYNK. DELANEY 24 UNITED STATES MAGISTRATE JUDGE 25 26 27 | 1 tayl0403.firs 28