

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

OPINION

(PC) Taylor v. Gordan

PER CURIAM.

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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

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