

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Dalevon Anthony Colbert v. Wasco State Prison, et al.

Colbert v. Wasco State Prison · No. 1:25-cv-01740-SKO · Decided January 9, 2026

SUMMARY

The United States District Court for the Eastern District of California ordered pro se plaintiff Dalevon Anthony Colbert to show cause within 30 days why his 42 U.S.C. § 1983 action should not be dismissed for failure to exhaust administrative remedies under the Prison Litigation Reform Act. The court directed plaintiff to answer exhaustion questions concerning both claims or, alternatively, to voluntarily dismiss the action without prejudice.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Sheila K. Oberto
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	January 9, 2026
DOCKET	1:25-cv-01740-SKO
DISPOSITION	other
PROCEDURAL POSTURE	The court reviewed a pro se prisoner's complaint under 42 U.S.C. § 1983 and ordered him to show cause why the action should not be dismissed for failure to exhaust administrative remedies.
STANDARD OF REVIEW	On review of the complaint, the court considered whether failure to exhaust administrative remedies was clear from the face of the pleading and therefore subject to dismissal at that stage.
PRECEDENTIAL VALUE	Unknown; district-court order to show cause with no reporter citation.

TOPICS

- prisoners rights
- section 1983
- civil procedure
- affirmative defenses

PRACTICE AREAS

- Prisoner civil rights
- Civil procedure
- Administrative exhaustion

QUESTIONS PRESENTED

1. Whether the complaint showed on its face that Plaintiff may have failed to exhaust available administrative remedies before filing suit under the Prison Litigation Reform Act.
2. Whether Plaintiff should be required to explain, as to each claim, whether he submitted and fully appealed an administrative grievance.

HOLDINGS

1. The Prison Litigation Reform Act requires a prisoner to exhaust available administrative remedies before bringing an action concerning prison conditions, and unexhausted claims cannot be brought in federal court.
2. Although failure to exhaust is ordinarily an affirmative defense for the defendant to plead and prove, a court may dismiss a claim when failure to exhaust is clear from the face of the complaint.

KEY QUOTATIONS

“The Prison Litigation Reform Act (PLRA) provides that “[n]o action shall be brought with respect to prison conditions under . . . any other Federal law . . . by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.”” (at 1)

“In general, failure to exhaust is an affirmative defense that the defendant must plead and prove.” (at 2)

FACTUAL BACKGROUND

Plaintiff, a former inmate at Wasco State Prison, brought a civil-rights action under 42 U.S.C. § 1983 concerning prison-related claims. In Claim I, he indicated that administrative remedies were available but did not state whether he submitted a grievance or appealed it to the highest level. His responses concerning Claim II were left blank, including the explanation for any failure to seek or appeal administrative relief.

PROCEDURAL HISTORY

Plaintiff filed his complaint on December 4, 2025. The court found that his responses concerning exhaustion were incomplete for Claim I and entirely blank for Claim II, and issued an order requiring a written response within 30 days. The court also permitted Plaintiff to file a notice of voluntary dismissal without prejudice instead.

DISPOSITION

other

CASES CITED

- Jones v. Bock, 549 U.S. 199, 211 (2007)
- Porter v. Nussle, 534 U.S. 516, 532 (2002)
- Booth v. Churner, 532 U.S. 731, 741 (2001)

- Woodford v. Ngo, 548 U.S. 81, 88, 93 (2006)
- Albino v. Baca, 747 F.3d 1162, 1166 (9th Cir. 2014)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 DALEVON ANTHONY COLBERT, Case No.: 1:25-cv-01740-SKO 12
Plaintiff, ORDER TO SHOW CAUSE IN WRITING WITHIN 30 DAYS WHY ACTION
SHOULD 13 v. NOT BE DISMISSED FOR A FAILURE TO EXHAUST ADMINISTRATIVE
REMEDIES 14 WASCO STATE PRISON, et al., 15 Defendants. 16 17 Plaintiff Dalevon Anthony
Colbert is appearing pro se and in forma pauperis in this civil 18 rights action pursuant to 42
U.S.C. section 1983.

19 I. INTRODUCTION & DISCUSSION 20 Plaintiff filed his complaint on December 4, 2025.
(Doc. 1.) The Court has reviewed 21 Plaintiff’s complaint. In Claim I, Plaintiff indicates that there
were available administrative 22 remedies at Wasco State Prison where he was previously
incarcerated and where his claims arose. 23 (See Doc. 1 at 3.) Plaintiff, however, fails to state
whether he submitted “a request for 24 administrative relief on Claim I” and whether he appealed
any such request to the highest level.

25 (Id.) Plaintiff also left blank the section asking for a brief explanation in the event no request or
26 appeal was submitted. (Id.) In Claim II, Plaintiff failed to respond to the administrative remedy
27 inquiries in their entirety, and all three boxes and the explanation portion are blank. (Id. at 4.)

The Prison Litigation Reform Act (PLRA) provides that “[n]o action shall be brought with 1
respect to prison conditions under... any other Federal law... by a prisoner confined in any jail, 2
prison, or other correctional facility until such administrative remedies as are available are 3
exhausted.” 42 U.S.C. § 1997e(a). Exhaustion of administrative remedies is mandatory and 4
“unexhausted claims cannot be brought in court.” Jones v. Bock, 549 U.S. 199, 211 (2007) 5
(citation omitted).

The exhaustion requirement applies to all inmate suits relating to prison life, 6 Porter v. Nussle,
534 U.S. 516, 532 (2002), regardless of the relief sought by the prisoner or 7 offered by the
administrative process, Booth v. Churner, 532 U.S. 731, 741 (2001). 8 Inmates are required to
“complete the administrative review process in accordance with 9 the applicable procedural rules,
including deadlines, as a precondition to bringing suit in federal 10 court.” Woodford v. Ngo, 548
U.S. 81, 88, 93 (2006).

In California, state inmate grievances are 11 subject to two levels of review. See Cal. Code Regs.
tit. 15, §§ 3481(a), 3999.226(a)(1). 12 Prisoners must generally receive a disposition from the
second level of review before 13 administrative remedies are deemed exhausted. See id. §§ 3483,

3486, 3999.226(g); but see id. § 14 3483(l)(3). 15 In general, failure to exhaust is an affirmative defense that the defendant must plead and 16 prove.

Jones, 549 U.S. at 204, 216. However, courts may dismiss a claim if failure to exhaust is 17 clear on the face of the complaint. See Albino v. Baca, 747 F.3d 1162, 1166 (9th Cir. 2014). 18 Here, it appears Plaintiff may not have exhausted his administrative remedies prior to filing his 19 complaint. Specifically, as set forth above, Plaintiff's responses as to Claim I are incomplete and 20 the required responses for Claim II are missing altogether.

21 Accordingly, the Court will direct Plaintiff to submit a written filing in which he answers 22 the questions relevant to administrative exhaustion. As to both claims asserted, Plaintiff must 23 state whether he (1) submitted a request for administrative relief (a grievance) and (2) appealed 24 that request to the highest level (an appeal). If, as to either Claim I or Claim II, Plaintiff did not 25 submit or appeal a request for relief at any level, he must briefly explain why he did not do so.

26 II. CONCLUSION AND ORDER 27 Accordingly, the Court HEREBY ORDERS that: 1 writing why this action should not be dismissed for a failure to exhaust administrative 2 remedies; 3 2. Plaintiff SHALL respond to the following questions regarding both Claim I and Claim 4 II: 5 a. Did you submit a request for administrative relief? 6 b. Did you appeal that request to the highest level?

7 c. If you did not submit a request for administrative relief and/or did not appeal 8 that request to the highest level, briefly explain why you did not do so; and 9 3. In the alternative, Plaintiff may file a notice of voluntary dismissal of this action 10 without prejudice. 11 IT IS SO ORDERED. 12 13 Dated: January 9, 2026 /s/ Sheila K. Oberto. UNITED STATES MAGISTRATE JUDGE 14 15 16 17 18 19 20 21 22 23 24 25 26 27