

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Ponce v. Fresno County Sheriff's Department Arresting/Booking
Deputies

Ponce · No. 1:21-cv-01046-HBK (PC) · Decided March 1, 2023

SUMMARY

The United States Magistrate Judge recommends dismissal of David Ponce’s First Amended Complaint against unidentified Fresno County Sheriff’s Department booking deputies. The court concludes that the complaint fails to state a cognizable Fourteenth Amendment excessive-force claim because the allegations are vague and conclusory, and it further concludes that Ponce failed to exhaust available administrative remedies under the Prison Litigation Reform Act. The order directs assignment of a district judge and provides a fourteen-day period for objections.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Helena M. Barch-Kuchta
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 1, 2023
DOCKET	1:21-cv-01046-HBK (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Findings and recommendations on screening of a pro se prisoner's First Amended Complaint under 28 U.S.C. § 1915A. The magistrate judge recommended dismissal for failure to state a claim and failure to exhaust administrative remedies, subject to a fourteen-day objection period.
STANDARD OF REVIEW	At screening under 28 U.S.C. § 1915A, the court accepts well-pleaded factual allegations as true, construes a pro se complaint liberally, and resolves doubts in the plaintiff's favor, but does not accept conclusory allegations, unreasonable inferences, or unwarranted deductions. A complaint must contain sufficient factual detail to state a facially plausible claim. Failure to exhaust may be dismissed at screening when the failure is clear from the face of the complaint.

PRECEDENTIAL VALUE	nonprecedential
PARTIES	David Ponce v. Fresno County Sheriff's Department Arresting/Booking Deputies

TOPICS

section 1983 prisoners rights civil rights fourteenth amendment civil procedure

PRACTICE AREAS

civil rights prisoner litigation constitutional law civil procedure

QUESTIONS PRESENTED

1. Whether the First Amended Complaint stated a cognizable Fourteenth Amendment excessive-force claim under 42 U.S.C. § 1983.
2. Whether the complaint was subject to dismissal under the Prison Litigation Reform Act for failure to exhaust available administrative remedies.
3. Whether Plaintiff should receive further leave to amend.

HOLDINGS

1. The First Amended Complaint failed to state a cognizable Fourteenth Amendment excessive-force claim because its allegations were vague and conclusory and did not identify which particular deputy committed which alleged acts or provide sufficient detail concerning the duration of restraint-chair use.
2. Dismissal was warranted because Plaintiff acknowledged that he had not exhausted the available Fresno County Jail grievance and appeal process before filing the action, and the failure to exhaust was apparent from the face of the complaint.
3. Further leave to amend was not warranted because Plaintiff had already been given an opportunity to cure the defects and had not done so.

KEY QUOTATIONS

“a pretrial detainee must show only that the force purposely or knowingly used against him was objectively unreasonable.” (at 6)

“The exhaustion requirement of the PLRA does not apply to a formerly-incarcerated individual who files a section 1983 conditions of confinement claim after they are released from custody.” (at 9)

“Plaintiff’s FAC be dismissed for failure to state claims upon which relief may be granted and for failure to exhaust administrative remedies.” (at 10)

FACTUAL BACKGROUND

Plaintiff, a pretrial detainee when he filed suit, alleged that Fresno County booking deputies twice used force against him at or after booking in February 2021. He alleged that deputies placed him in a restraint chair after he requested a safety cell and mental-health attention, and that during a later incident deputies punched him, stepped on his hands and feet, applied handcuffs and leg restraints, and again left him in a restraint chair beyond an unspecified legal limit. Plaintiff identified only unidentified booking deputies and acknowledged that he had not completed the available grievance process before filing suit.

PROCEDURAL HISTORY

Plaintiff filed the action on July 2, 2021 and was granted leave to proceed in forma pauperis. After the initial complaint was screened and found deficient, the court gave Plaintiff options including amendment; Plaintiff filed a First Amended Complaint naming unidentified Fresno County booking deputies. The magistrate judge concluded that the amended pleading remained deficient and recommended dismissal without further leave to amend, while directing assignment of a district judge.

DISPOSITION

other

CASES CITED

- Jenkins v. McKeithen, 395 U.S. 411, 421 (1969)
- Bernhardt v. L.A. County, 339 F.3d 920, 925 (9th Cir. 2003)
- Western Mining Council v. Watt, 643 F.2d 618, 624 (9th Cir. 1981)
- Jackson v. Arizona, 885 F.2d 639, 640 (9th Cir. 1989)
- Franklin, 745 F.2d at 1227
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Moss v. U.S. Secret Service, 572 F.3d 962, 969 (9th Cir. 2009)
- Lopez v. Smith, 203 F.3d 1122, 1127-29, 1130-31 (9th Cir. 2000) (en banc)
- Pliler v. Ford, 542 U.S. 225, 231 (2004)
- Manuel v. City of Joliet, Ill., 137 S. Ct. 911, 916 (2017)
- Soo Park v. Thompson, 851 F.3d 910, 921 (9th Cir. 2017)
- King v. County of Los Angeles, 885 F.3d 548, 559 (9th Cir. 2018)
- Bell v. Wolfish, 441 U.S. 520 (1979)
- Kingsley v. Hendrickson, 576 U.S. 389, 396-97 (2015)
- Graham v. Connor, 490 U.S. 386, 396 (1989)
- Gillespie v. Civiletti, 629 F.2d 637, 642 (9th Cir. 1980)
- Haines v. Kerner, 404 U.S. 519, 520-21 (1972)
- Ivey v. Board of Regents, 673 F.2d 266, 268 (9th Cir. 1982)
- Polnitz v. Peoria County, No. 08-1035, 2009 WL 311157, at *3 (C.D. Ill. Feb. 4, 2009)

- Battle v. Collier County Sheriff's Office, No. 2:14-cv-98-FTM-29-DNF, 2014 WL 905483, at *3 (M.D. Fla. Mar. 6, 2014)
- Eubank v. Wesseler, No. 10-210-DLB-JGW, 2011 WL 3652558, at *4 (E.D. Ky. Aug. 19, 2011)
- Albino v. Baca, 747 F.3d 1162, 1166 (9th Cir. 2014)
- Ross v. Blake, 578 U.S. 632, 635 (2016)
- Andres v. Marshall, 867 F.3d 1076, 1079 (9th Cir. 2017)
- Saddozai v. Davis, 35 F.4th 705 (9th Cir. 2022)
- Talamantes v. Leyva, 575 F.3d 1021, 1024 (9th Cir. 2009)
- Page v. Torrey, 201 F.3d 1136 (9th Cir. 2000)
- Olivas v. Nevada ex rel. Department of Corrections, 856 F.3d 1281, 1284 (9th Cir. 2017)
- Jones v. Bock, 549 U.S. 199, 223-24 (2007)
- Lira v. Herrera, 427 F.3d 1164, 1175-76 (9th Cir. 2005)
- Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)
- Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)