

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Corey Lavelle Green v. M. Lizarraga, et al.

Green v. Lizarraga · No. 22-cv-01175-DMS-MMP · Decided October 21, 2025

SUMMARY

The United States District Court for the Southern District of California adopted the magistrate judge’s Report and Recommendation concerning defendants’ motion for summary judgment. The court granted summary judgment on the plaintiff’s illegal extraction claim but denied it as to excessive force claims against Lizarraga, Galindo, and Montejano.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Dana M. Sabraw
JURISDICTION	United States District Court for the Southern District of California
DECIDED	October 21, 2025
DOCKET	22-cv-01175-DMS-MMP
DISPOSITION	other
PROCEDURAL POSTURE	The district court reviewed defendants' objections to a magistrate judge's report and recommendation on defendants' motion for summary judgment.
STANDARD OF REVIEW	The district court reviewed the magistrate judge's report and recommendation and defendants' objections; the court applied the summary-judgment standard concerning genuine disputes of material fact.
PRECEDENTIAL VALUE	Unknown

TOPICS

- summary judgment
- prisoners rights
- police misconduct
- civil rights
- civil procedure

PRACTICE AREAS

- civil rights
- prisoner civil rights
- federal civil procedure

QUESTIONS PRESENTED

1. Whether *Heck v. Humphrey* barred Green's claims because the criminal jury's verdict necessarily established that defendants acted lawfully.
2. Whether summary judgment was proper on Green's excessive-force claims against Lizarraga, Galindo, and Montejano.
3. Whether summary judgment was proper on Green's illegal-extraction claim.

HOLDINGS

1. *Heck* did not require summary judgment because the criminal jury did not necessarily find that the defendants before the court acted lawfully.
2. Summary judgment was denied on the excessive-force claims against Lizarraga, Galindo, and Montejano.
3. Defendants were entitled to summary judgment on Green's illegal-extraction claim.

KEY QUOTATIONS

“the criminal jury did not necessarily make a finding that any of the defendants currently before this Court acted lawfully.” (1)

“any ambiguity tends to show a genuine dispute as to a material fact, particularly given the duty to liberally construe documents filed pro se.” (1)

FACTUAL BACKGROUND

Green, a prisoner proceeding pro se, alleged that defendants used excessive force against him and that Sergeant Montejano ordered other officers to enter his cell and cause him harm. Defendants argued that *Heck v. Humphrey* barred the action because of Green's criminal conviction and that the claims against Montejano could not survive because he did not personally order the alleged excessive force. The court concluded that the criminal jury did not necessarily find that the defendants acted lawfully and that Green's allegations created an ambiguity showing a genuine dispute of material fact.

PROCEDURAL HISTORY

Magistrate Judge Michelle M. Pettit recommended granting in part and denying in part defendants' motion for summary judgment. Defendants objected, arguing that the report and recommendation misapplied *Heck v. Humphrey* and that claims against Sergeant Montejano should not survive. The district court adopted the report and recommendation in its entirety, granted summary judgment on the illegal-extraction claim, and denied summary judgment on the excessive-force claims against Lizarraga, Galindo, and Montejano.

DISPOSITION

other

CASES CITED

- Heck v. Humphrey, 512 U.S. 477 (1994)
- King v. R. Villegas, No. 23-1713, 2025 WL 2950508, at *7 (9th Cir. Oct. 20, 2025)
- Erickson v. Pardus, 551 U.S. 89, 94 (2007)

OPINION

Green

PER CURIAM.

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UNITED STATES DISTRICT COURT

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SOUTHERN DISTRICT OF CALIFORNIA

8 9 Case No.: 22-cv-01175-DMS-MMP

COREY LAVELLE GREEN,

10 Plaintiff, ORDER (1) ADOPTING 11

v. MAGISTRATE JUDGE'S REPORT

12 AND RECOMMENDATION, (2)

M. LIZARRAGA, et al.,

GRANTING IN PART AND

13 Defendants. DENYING IN PART DEFENDANTS'

14 MOTION FOR SUMMARY

JUDGMENT

15 16 17 18 Before the Court is United States Magistrate Judge Michelle M. Pettit's Report and 19
Recommendation ("R&R") recommending that the Court grant in part and deny in part 20
Defendants' Motion for Summary Judgment. (ECF No. 88). Defendants have filed 21 objections to
the R&R. (ECF No. 92). The Court having reviewed the thorough and well- 22 reasoned R&R,
adopts it in its entirety. 23 Defendants contend that the R&R failed to appropriately apply Heck v.
Humphrey 24 to the facts at hand. 512 U.S. 477 (1994). However, the Court is persuaded by the
analysis 25 in the R&R leading to the conclusion that "the criminal jury did not necessarily make a
26 finding that any of the defendants currently before this Court acted lawfully." (ECF No. 27 88);
see King v. R. Villegas, No. 23-1713, 2025 WL 2950508, at *7 (9th Cir. Oct. 20, 2025) 28 (noting
that a prisoner plaintiff's excessive force action filed prior to criminal charges was 1 ||not the type
of collateral attack contemplated by the Supreme Court in deciding Heck). 2 ||Defendants also
object to the survival of claims against Sergeant Montejano, who they 3 ||argue did not order the
excessive force at issue. Plaintiff alleges that Sgt. Montejano 4 "ordered [the other officers] to run
inside the cell to do that, because he said he did that" 5 that "under [Sgt. Montejano's] orders it
was ill intentions that cause [sic] my injuries 6 || by his command to cause me harm." (ECF Nos.
71-2 at 37, 1 at 2-3) (emphasis added). 7 || Although the Defendants point out what they think
"Plaintiff is most likely referring to," 8 ||any ambiguity tends to show a genuine dispute as to a

material fact, particularly given the 9 || duty to liberally construe documents filed pro se. (ECF No. 92); Erickson v. Pardus, 551 U.S. 89, 94 (2007). 11 For these reasons, the Court adopts the R&R in its entirety. Defendants' Motion for 12 || Summary Judgment as to Plaintiffs illegal extraction claim is GRANTED. Defendants' 13 || Motion for Summary Judgment as to Plaintiff's excessive force claims against Defendants 14 || Lizarraga, Galindo, and Montejano is DENIED. 15 IT IS SO ORDERED. 16 || Dated: October 21, 2025 2» 17 jn Yn « 18 Hon. Dana M. Sabraw 19 United States District Judge 20 21 22 23 24 25 26 27 28