

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
CALIFORNIA

Piña v. Ysusi

Case No. 1:20-cv-01735-BAM (PC) (E.D. Cal. Apr. 1, 2025) · No. 1:20-cv-01735-BAM (PC) · Decided April 1, 2025

SUMMARY

The United States District Court for the Eastern District of California grants Defendant J. Gonzales’s motion for summary judgment on Plaintiff Pablo P. Piña’s First Amendment retaliation claim for failure to exhaust administrative remedies under the Prison Litigation Reform Act. The court concludes that Plaintiff’s identified administrative appeals concerned excessive-force allegations against Defendant Ysusi or the disciplinary hearing, and did not grieve retaliation by Gonzales. The court also addresses evidentiary objections to Plaintiff’s opposition materials.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Eastern District of California                                                                                                                                                                                                                                                                                                                                                                      |
| WRITING FOR THE COURT | Barbara A. McAuliffe                                                                                                                                                                                                                                                                                                                                                                                                                     |
| JURISDICTION          | United States District Court, Eastern District of California                                                                                                                                                                                                                                                                                                                                                                             |
| DECIDED               | April 1, 2025                                                                                                                                                                                                                                                                                                                                                                                                                            |
| DOCKET                | 1:20-cv-01735-BAM (PC)                                                                                                                                                                                                                                                                                                                                                                                                                   |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| PROCEDURAL POSTURE    | Defendant Gonzales moved for partial summary judgment on the ground that Plaintiff failed to exhaust available administrative remedies before bringing his First Amendment retaliation claim under 42 U.S.C. § 1983.                                                                                                                                                                                                                     |
| STANDARD OF REVIEW    | Summary judgment is proper under Federal Rule of Civil Procedure 56 when there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. On exhaustion, the defendant bears the ultimate burden of proving that an available administrative remedy existed and was not exhausted; if the defendant meets that burden, the prisoner must show that the remedy was effectively unavailable. |
| PRECEDENTIAL VALUE    | Unpublished district-court order; generally nonprecedential except as permitted by applicable rules.                                                                                                                                                                                                                                                                                                                                     |

## PARTIES

Pablo P. Piña v. J. Gonzales

## TOPICS

summary judgment

prisoners rights

section 1983

evidence

civil procedure

## PRACTICE AREAS

Civil rights

Prisoner litigation

Federal civil procedure

Administrative exhaustion

Evidence

## QUESTIONS PRESENTED

1. Whether Gonzales was entitled to summary judgment because Piña failed to exhaust available administrative remedies for his First Amendment retaliation claim.
2. Whether Piña's letters to the warden and the Secretary of the California Department of Corrections and Rehabilitation, rather than a completed institutional grievance, satisfied the exhaustion requirement.
3. Whether the alleged dysfunction, bias, cancellation of an appeal, or fear of retaliation rendered the grievance process effectively unavailable.

## HOLDINGS

1. Piña failed to exhaust available administrative remedies because none of the appeals he identified complained that Gonzales retaliated against him by ordering cell searches or trashing his cell.
2. Piña could not exhaust his retaliation claim by bypassing the ordinary grievance process and sending letters directly to the warden or the Secretary of CDCR because he did not show that the ordinary process was effectively unavailable.
3. Piña did not create a genuine dispute that the grievance process was effectively unavailable because generalized evidence of system-wide problems, an allegedly improper cancellation of another appeal, and fear of retaliation did not explain his failure to present the retaliation claim through the available process.
4. Summary judgment was appropriate because the undisputed evidence showed that Piña failed to exhaust the retaliation claim and did not establish a genuine dispute concerning unavailability.

## KEY QUOTATIONS

*“Plaintiff’s claim against Defendant J. Gonzales for retaliation in violation of the First Amendment is DISMISSED, without prejudice, for failure to exhaust administrative remedies;”* (Conclusion and Order)

*“Thus, Plaintiff was required to complete the administrative review process in accordance with the applicable procedural rules of the prison grievance process.”* (Discussion, § III.E.3.d)

*“If undisputed evidence viewed in the light most favorable to the prisoner shows a failure to exhaust, a defendant is entitled to summary judgment under Rule 56.”* (Summary Judgment Standard)

## FACTUAL BACKGROUND

Piña alleged that Gonzales retaliated against him after a February 2017 disciplinary hearing by ordering searches and trashing of his cell after Piña threatened to file a grievance. Piña identified several administrative appeals, but those appeals concerned the disciplinary hearing and excessive-force allegations against Ysusi and did not identify retaliation by Gonzales. Prison records showed that administrative remedies were available and that Piña continued filing other grievances after the alleged threat and cell searches.

#### PROCEDURAL HISTORY

Piña filed a prisoner civil-rights action alleging excessive force against Defendant Ysusi and retaliation against Defendant Gonzales. The court screened the first amended complaint, dismissed the Fourteenth Amendment due-process claim against Gonzales, and allowed the excessive-force and retaliation claims to proceed. Gonzales moved for summary judgment for failure to exhaust. The court granted the motion, dismissed the retaliation claim without prejudice, and ordered that the action proceed only against Ysusi on the excessive-force claim.

#### DISPOSITION

other

#### CASES CITED

- Woods v. Carey, 684 F.3d 934 (9th Cir. 2012)
- Rand v. Rowland, 154 F.3d 952, 957 (9th Cir. 1988)
- Klingele v. Eikenberry, 849 F.2d 409, 411–12 (9th Cir. 1988)
- Booth v. Churner, 532 U.S. 731, 741 (2001)
- Porter v. Nussle, 534 U.S. 516, 532 (2002)
- Jones v. Bock, 549 U.S. 199, 201, 216 (2007)
- Albino v. Baca, 747 F.3d 1162, 1166, 1172 (9th Cir. 2014) (en banc)
- Williams v. Paramo, 775 F.3d 1182, 1191 (9th Cir. 2015)
- Wash. Mut. Inc. v. United States, 636 F.3d 1207, 1216 (9th Cir. 2011)
- Carmen v. S.F. Unified Sch. Dist., 237 F.3d 1026, 1031 (9th Cir. 2001)
- Simmons v. Navajo Cty., Ariz., 609 F.3d 1011, 1017 (9th Cir. 2010)
- Reyes v. Smith, 810 F.3d 654, 657 (9th Cir. 2016)
- Harvey v. Jordan, 605 F.3d 681, 683 (9th Cir. 2010)
- Fonseca v. Sysco Food Servs. of Ariz., Inc., 374 F.3d 840, 846 (9th Cir. 2004)
- Calmat Co. v. U.S. Dep’t of Labor, 364 F.3d 1117, 1124 (9th Cir. 2004)
- Las Vegas Sands, LLC v. Nehme, 632 F.3d 526, 532–33 (9th Cir. 2011)
- Rivera v. AMTRAK, 331 F.3d 1074, 1078 (9th Cir. 2003)
- F.T.C. v. Publ’g Clearing House, Inc., 104 F.3d 1168, 1171 (9th Cir. 1997), as amended (Apr. 11, 1997)
- Chamberlain v. Les Schwab Tire Center of Cal., Inc., No. 2:11-cv-03105-JAM-DAD, 2012 WL 6020103, at \*2 (E.D. Cal. Dec. 3, 2012)
- Burch v. Regents of Univ. of Cal., 433 F. Supp. 2d 1110, 1119–20 (E.D. Cal. 2006)

- Carden v. Chenega Sec. & Protections Servs., LLC, No. CIV 2:09-1799 WBS CMK, 2011 WL 1807384, at \*3 (E.D. Cal. May 10, 2011)
- Arias v. McHugh, No. CIV 2:09-690 WBS GGH, 2010 WL 2511175, at \*6 (E.D. Cal. June 17, 2010)
- Tracchia v. Tilton, No. CIV S-06-2919 GEB KJM P, 2009 WL 3055222, at \*3 (E.D. Cal. Sept. 21, 2009)

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