

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Perkins v. Rivera

Perkins · No. 1:24-cv-01497-KES-EPG (PC) · Decided May 30, 2025

SUMMARY

The United States Magistrate Judge recommends that the case proceed only on Plaintiff Gary Ronnell Perkins’s First Amendment retaliation claim against Defendant Rivera. The recommendation would dismiss all other claims and advises that objections may be filed within 30 days.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	May 30, 2025
DOCKET	1:24-cv-01497-KES-EPG (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Screening of a pro se prisoner civil-rights complaint under 42 U.S.C. § 1983, followed by magistrate judge findings and recommendations after Plaintiff elected to proceed only on the retaliation claim found cognizable.
STANDARD OF REVIEW	Screening under the requirement that a complaint state a cognizable claim for relief; the document incorporates the reasoning of the May 6, 2025 screening order.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

prisoners rights section 1983 first amendment civil rights pleadings

PRACTICE AREAS

prisoner civil rights constitutional litigation federal civil procedure

QUESTIONS PRESENTED

1. Whether Plaintiff's complaint stated a cognizable First Amendment retaliation claim under 42 U.S.C. § 1983.

2. Whether claims other than the cognizable First Amendment retaliation claim should be dismissed after Plaintiff elected to proceed only on that claim.

HOLDINGS

1. The complaint sufficiently stated a First Amendment retaliation claim against Defendant Rivera, allowing that claim to proceed past screening.
2. All claims other than Plaintiff's First Amendment retaliation claim against Defendant Rivera should be dismissed, subject to adoption or modification by the assigned district judge.

KEY QUOTATIONS

"IT IS RECOMMENDED that all claims other than Plaintiff's First Amendment retaliation against Defendant Rivera be dismissed." (at 2)

"Within thirty (30) days after being served with these findings and recommendations, Plaintiff may file written objections with the Court." (at 2)

FACTUAL BACKGROUND

Plaintiff Gary Ronnell Perkins, a prisoner proceeding pro se, alleged that Defendant Rivera confiscated Plaintiff's approved special purchase order for handicraft items and confiscated other items after Plaintiff threatened to file a grievance. The screening court found that the allegations sufficiently stated a First Amendment retaliation claim but did not state the other asserted claims.

PROCEDURAL HISTORY

Plaintiff filed a § 1983 complaint alleging that Defendant Rivera confiscated approved handicraft items and other property in retaliation for Plaintiff threatening to file a grievance. The court screened the complaint on May 6, 2025, finding that only a First Amendment retaliation claim was sufficiently stated and allowing Plaintiff to choose whether to proceed on that claim, amend, or stand on the complaint. Plaintiff elected to proceed only on the retaliation claim, and the magistrate judge recommended dismissal of all other claims, subject to objections and review by the assigned district judge.

DISPOSITION

other

CASES CITED

- Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)
- Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)

OPINION

(PC) Perkins v. Rivera

PER CURIAM.

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UNITED STATES DISTRICT COURT

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EASTERN DISTRICT OF CALIFORNIA

8 9 GARY RONNELL PERKINS, Case No. 1:24-cv-01497-KES-EPG (PC) 10 Plaintiff,

FINDINGS AND RECOMMENDATIONS

11 THAT THIS CASE PROCEED ONLY ON

v. PLAINTIFF'S RETALIATION CLAIM

12 I. RIVERA, (ECF Nos. 1, 9, 10) 13 Defendant.

14 OBJECTIONS, IF ANY, DUE WITHIN 30

DAYS

15 16 Plaintiff Gary Ronnell Perkins proceeds pro se in this civil rights action filed under 42 17
U.S.C. § 1983. (ECF No. 1). The complaint generally alleges that Defendant Rivera 18 improperly
confiscated Plaintiff's approved special purchase order of handicraft items, and also 19 confiscated
other items in retaliation for Plaintiff threatening to file a grievance. 20 On May 6, 2025, the Court
screened the complaint, concluding that Plaintiff sufficiently 21 stated a claim for retaliation in
violation of the First Amendment against Defendant Rivera. 22 (ECF No. 1). The Court explained
why the complaint otherwise failed to state any claims and 23 gave Plaintiff thirty days to either
file (1) a notice to go forward on his cognizable claim, (2) an 24 amended complaint; or (3) a
notice to stand on his complaint and have it reviewed by a district 25 judge. (Id.). 26 On May 15,
2025, Plaintiff filed a notice stating that he wants to proceed only on the 27 retaliation claim that
the Court found cognizable. (ECF No. 10). 28 Accordingly, for the reasons set forth in the Court's
screening order that was entered on 1 || May 6, 2025 (ECF No. 9), and because Plaintiff has
notified the Court that he wants to proceed 2 || only on the retaliation claim that the Court found
should proceed past screening (ECF No. 10), 3 || IT IS RECOMMENDED that all claims other
than Plaintiff's First Amendment retaliation 4 against Defendant Rivera be dismissed. 5 These
findings and recommendations will be submitted to the United States District 6 || Judge assigned to
the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within 7 || thirty (30) days after
being served with these findings and recommendations, Plaintiff may file 8 || written objections
with the Court. The document should be captioned "Objections to 9 || Magistrate Judge's Findings
and Recommendations." Any objections shall be limited to no 10 || more than 15 pages, including
exhibits. Plaintiff is advised that failure to file objections within 11 || the specified time may result
in the waiver of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 12 || 834, 838-39 (9th Cir. 2014)
(citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)). 13 14 IT IS SO ORDERED. 15 16
Dated: _May 30, 2025 [see hey

16 UNITED STATES MAGISTRATE JUDGE

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