

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PRECEDENTIAL VALUE	nonprecedential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

- 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)