

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Richard Odell v. Xu/Tzue

Odell · No. 25-cv-04306-JD · Decided December 8, 2025

SUMMARY

This order in a prisoner civil-rights action under 42 U.S.C. § 1983 directs electronic service on Dr. Sam Pajong and confirms that the case proceeds only against Dr. Pajong and Dr. Xu. It dismisses the remaining defendants and establishes deadlines for dispositive motions, opposition, and reply briefs, along with instructions concerning discovery, service of filings, and maintaining a current address. The order was entered by the United States District Court for the Northern District of California on December 8, 2025.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	James Ato
JURISDICTION	United States District Court for the Northern District of California
DECIDED	December 8, 2025
DOCKET	25-cv-04306-JD
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, a state prisoner proceeding pro se, filed a civil-rights action under 42 U.S.C. § 1983. After finding a cognizable deliberate-indifference claim against Dr. Xu and Dr. Pajong and granting leave to amend as to other defendants, the court ordered service on Dr. Pajong, continued the action against Dr. Xu and Dr. Pajong, and dismissed the remaining defendants after plaintiff failed to amend.
PRECEDENTIAL VALUE	unpublished_nonprecedential

TOPICS

- service of process
- section 1983
- prisoners rights
- summary judgment
- civil procedure

PRACTICE AREAS

- civil rights
- prisoner litigation
- federal civil procedure
- medical-care claims

QUESTIONS PRESENTED

1. Which defendants remained in the action after plaintiff failed to file an amended complaint?
2. Whether the court should order service of process on Dr. Pajong and establish procedures for service, dispositive motions, discovery, and prosecution of the action.

KEY QUOTATIONS

“Plaintiff did not file an amended complaint. Therefore, the case continues against only Dr. Xu and Dr. Pajong.” (1)

“The Court orders that Dr. Sam Pajong be electronically served at San Quentin Rehabilitation Center. All other defendants are dismissed from this action.” (1)

FACTUAL BACKGROUND

Richard Odell, a state prisoner, brought a pro se § 1983 complaint alleging deliberate indifference to serious medical needs. The court had previously determined that the complaint stated a cognizable claim against Dr. Xu and Dr. Pajong, while other defendants were dismissed with leave to amend. Odell did not file an amended complaint.

PROCEDURAL HISTORY

The court previously screened the complaint and found a cognizable deliberate-indifference claim concerning serious medical needs against Dr. Xu and Dr. Pajong. The court dismissed the remaining defendants with leave to amend, but plaintiff did not file an amended complaint. This order directed service on Dr. Pajong, confirmed that Dr. Xu had already been served, and established a schedule for dispositive motions and related filings.

DISPOSITION

other

CASES CITED

- Rand v. Rowland, 154 F.3d 952 (9th Cir. 1998) (en banc)
- Wyatt v. Terhune, 315 F.3d 1108 (9th Cir. 2003)
- Woods v. Carey, 684 F.3d 934 (9th Cir. 2012)
- Klingele v. Eikenberry, 849 F.2d 409 (9th Cir. 1988)

OPINION

Odell

PER CURIAM.

1 2

3 UNITED STATES DISTRICT COURT

4 NORTHERN DISTRICT OF CALIFORNIA

5 6 RICHARD ODELL, Case No. 25-cv-04306-JD 7 Plaintiff,
ORDER RE SERVICE

v. 8

9 XU/TZUE,

Defendant. 10 11 12 Plaintiff, a state prisoner, filed a pro se civil rights complaint under 42 U.S.C. § 1983. The 13 Court previously found that plaintiff stated a cognizable claim for deliberate indifference to his 14 serious medical needs against defendants Dr. Xu and Dr. Pajong. The remaining defendants were 15 dismissed with leave to amend to present additional allegations. Plaintiff did not file an amended 16 complaint. Therefore, the case continues against only Dr. Xu and Dr. Pajong. The Court will 17 order service on Dr. Pajong. Dr. Xu was already served and should follow the instruction set forth 18 below.

19 CONCLUSION

20 1. The Court orders that Dr. Sam Pajong be electronically served at San Quentin 21 Rehabilitation Center. All other defendants are dismissed from this action. 22 Service on the listed defendant will be effected via the CDCR e-service program for civil 23 rights cases from prisoners in CDCR custody. In accordance with the program, the Clerk is 24 directed to serve on CDCR via email the following documents: the operative complaint (Dkt. Nos. 25 1, 2), this order of service, a CDCR Report of E-Service Waiver form and a summons. The Clerk 26 is also requested to serve a copy of this order on the plaintiff. 27 No later than 40 days after service of this order via email on CDCR, CDCR will provide 1 listed in this order will be waiving service of process without the need for service by the United 2 States Marshal Service (USMS) and which defendant declines to waive service or could not be 3 reached. CDCR also will provide a copy of the CDCR Report of E-Service Waiver to the 4 California Attorney General's Office which, within 21 days, will file with the Court a waiver of 5 service of process for the defendant if he is waiving service. 6 Upon receipt of the CDCR Report of E-Service Waiver, the Clerk is requested to prepare 7 for each defendant who has not waived service according to the CDCR Report of E-Service 8 Waiver a USM-285 Form. The Clerk will provide to the USMS the completed USM-285 forms 9 and copies of this order, the summons and the operative complaint for service upon each defendant 10 who has not waived service. The Clerk will also provide to the USMS a copy of the CDCR 11 Report of E-Service Waiver. 12 2. To expedite the resolution of this case, the Court orders: 13 a. No later than ninety days from the date of service, defendants Dr. Xu and 14 Dr. Pajong, will file a motion for summary judgment or other dispositive motion. The motion will 15 be supported by adequate factual documentation and will conform in all respects to Federal Rule 16 of Civil Procedure 56, and will include as exhibits all records and incident reports stemming from 17 the events at issue. If defendants are of the opinion that this case cannot be resolved by summary 18 judgment, they will so inform the Court prior to the date his summary judgment motion is due. 19 All papers filed with the Court will be promptly served on the plaintiff. 20 b. At the time the dispositive motion is served, defendants will also serve, on a 21 separate paper, the appropriate notice or notices

required by *Rand v. Rowland*, 154 F.3d 952, 953- 22 954 (9th Cir. 1998) (en banc), and *Wyatt v. Terhune*, 315 F.3d 1108, 1120 n. 4 (9th Cir. 2003). 23 See *Woods v. Carey*, 684 F.3d 934, 940-941 (9th Cir. 2012) (*Rand* and *Wyatt* notices must be 24 given at the time motion for summary judgment or motion to dismiss for nonexhaustion is filed, 25 not earlier); *Rand* at 960 (separate paper requirement). 26 c. Plaintiff's opposition to the dispositive motion, if any, will be filed with the 27 Court and served upon defendants no later than thirty days from the date the motion was served 1 provided to him pursuant to *Rand v. Rowland*, 154 F.3d 952, 953-954 (9th Cir. 1998) (en banc), 2 and *Klinge v. Eikenberry*, 849 F.2d 409, 411-12 (9th Cir. 1988). 3 If defendants file a motion for summary judgment claiming that plaintiff failed to exhaust 4 || his available administrative remedies as required by 42 U.S.C. § 1997e(a), plaintiff should take 5 || note of the attached page headed "NOTICE -- WARNING (EXHAUSTION)," which is provided 6 to him as required by *Wyatt v. Terhune*, 315 F.3d 1108, 1120 n. 4 (9th Cir. 2003). 7 d. If defendants wish to file a reply brief, they will do so no later than fifteen 8 days after the opposition is served upon them. 9 e. The motion will be deemed submitted as of the date the reply brief is due. 10 || No hearing will be held on the motion unless the Court so orders at a later date. 11 3. All communications by plaintiff with the Court must be served on defendants, or 12 || defendants' counsel once counsel has been designated, by mailing a true copy of the document to 13 defendants or defendants' counsel. 14 4. Discovery may be taken in accordance with the Federal Rules of Civil Procedure. 3 15 || No further Court order under Federal Rules of Civil Procedure are required before the parties may a 16 || conduct discovery. 3 17 5. It is plaintiff's responsibility to prosecute this case. Plaintiff must keep the Court S 18 || wformed of any change of address by filing a separate paper with the clerk headed "Notice of 19 || Change of Address." He also must comply with the Court's orders in a timely fashion. Failure to 20 || do so may result in the dismissal of this action for failure to prosecute pursuant to Federal Rule of 21 Civil Procedure 41(b). 22 IT IS SO ORDERED. 23 Dated: December 8, 2025 24 25

JAMES ATO

26 United States District Judge 27 28

1 NOTICE -- WARNING (SUMMARY JUDGMENT)

2 If defendants move for summary judgment, they are seeking to have your case dismissed. 3 A motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure will, if 4 granted, end your case.

5 Rule 56 tells you what you must do in order to oppose a motion for summary judgment.

6 Generally, summary judgment must be granted when there is no genuine issue of material fact-- 7 that is, if there is no real dispute about any fact that would affect the result of your case, the party 8 who asked for summary judgment is entitled to judgment as a matter of law, which will end your 9 case. When a party you are suing makes a motion for summary judgment that is properly 10 supported by declarations (or other sworn testimony), you cannot simply rely on what your 11 complaint says. Instead, you must set out specific facts in declarations, depositions, answers to 12

interrogatories, or authenticated documents, as provided in Rule 56(e), that contradict the facts 13 shown in the defendant's declarations and documents and show that there is a genuine issue of 14 material fact for trial. If you do not submit your own evidence in opposition, summary judgment, 15 if appropriate, may be entered against you. If summary judgment is granted, your case will be 16 dismissed and there will be no trial.

17 NOTICE -- WARNING (EXHAUSTION)

18 If defendants file a motion for summary judgment for failure to exhaust, they are seeking 19 to have your case dismissed. If the motion is granted it will end your case. 20 You have the right to present any evidence you may have which tends to show that you did 21 exhaust your administrative remedies. Such evidence may be in the form of declarations 22 (statements signed under penalty of perjury) or authenticated documents, that is, documents 23 accompanied by a declaration showing where they came from and why they are authentic, or other 24 sworn papers, such as answers to interrogatories or depositions. 25 If defendants file a motion for summary judgment for failure to exhaust and it is granted, 26 your case will be dismissed and there will be no trial. 27