

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Benanti v. Doerer

Benanti · No. 1:24-cv-01108-CDB (PC) · Decided May 6, 2025

OPINION

(PC) Benanti v. Doerer

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 MICHAEL BENANTI, Case No. 1:24-cv-01108-CDB (PC) 12 Plaintiff, ORDER
DISCHARGING NOVEMBER

21, 2024, ORDER TO SHOW CAUSE

13 v. (Docs. 13, 21, 22)

14 J. DOERER,

15 Defendant. 16

17 Relevant Background 18 Plaintiff Michael Benanti (“Plaintiff”) is a federal prisoner
proceeding pro se and in forma 19 pauperis who seeks to hold Defendants liable for violations of
his civil rights based upon the 20 conditions of lockdown that occurred at USP-Atwater from
August 9 to October 9, 2024. (See 21 generally Doc. 10). On November 21, 2024, the Court
ordered Plaintiff to show cause in writing 22 why the matter should not be dismissed for failure to
exhaust administrative remedies. (Doc. 13). 23 After Plaintiff did not respond, the undersigned
recommended dismissal without prejudice. (Doc. 24 15). Following a de novo review, the Court
dismissed the action without prejudice for failure to 25 exhaust administrative remedies and
entered judgment on January 13, 2025. (Docs. 16, 17). 26 Following Plaintiff’s filing of a request
for reconsideration of the order adopting the 27 findings and recommendations (Doc. 21) and a
request for an extension of time (Doc. 22), both of 28 which indicate Plaintiff did not timely
receive the Court’s orders or related filings—which the Court 1 construed as a motion for
reconsideration pursuant to Federal Rule of Civil Procedure 60(b) and to 2 late-file a response to
the order to show cause—the Court granted the construed motion, vacated 3 both the order
adopting the findings and recommendations and judgment entered on January 13, 4 2025, and
remanded the matter to the undersigned for reconsideration of Plaintiff’s response to the 5 order to
show cause. (Doc. 39 at 3). 6 Exhaustion Requirements 7 The Prison Litigation Reform Act
(“PLRA”) provides that “[n]o action shall be brought 8 with respect to prison conditions under
section 1983 ... or any other Federal law . . . by a prisoner 9 confined in any jail, prison, or other

correctional facility until such administrative remedies as are 10 available are exhausted.” 42 U.S.C. § 1997e(a). Exhaustion of administrative remedies is 11 mandatory and “unexhausted claims cannot be brought in court.” *Jones v. Bock*, 549 U.S. 199, 211 12 (2007) (citation omitted). The exhaustion requirement applies to all inmate suits relating to prison 13 life, *Porter v. Nussle*, 534 U.S. 516, 532 (2002), regardless of the relief sought by the prisoner or 14 offered by the administrative process, *Booth v. Churner*, 532 U.S. 731, 741 (2001). Inmates are 15 required to “complete the administrative review process in accordance with the applicable 16 procedural rules, including deadlines, as a precondition to bringing suit in federal court.” *Woodford v. Ngo*, 548 U.S. 81, 88, 93 (2006). In general, failure to exhaust is an affirmative defense that the 18 defendant must plead and prove. *Jones*, 549 U.S. at 204, 216. However, courts may dismiss a 19 claim if failure to exhaust is clear on the face of the complaint. See *Albino v. Baca*, 747 F.3d 1162, 20 1166 (9th Cir. 2014). 21 Discussion 22 Pending before the undersigned is Plaintiff’s response to the order to show cause, filed on

23 February 6, 2025. (Docs. 21, 22). Plaintiff represents that he did not receive the Court’s November

24 21, 2024, order to show cause until January 10, 2025, as the “delivery of mail to all inmates housed 25 in USP-Atwater is routinely delayed 30-60 days.” (Doc. 22 at 3); (see also *id.* at 2) (letter from D. 26 Datray, supervisory correctional systems specialist at USP-Atwater, advising that Plaintiff did not 27 receive the Court’s order “due to a delay in mail processing” and requesting the Court provide 28 Plaintiff “with additional time to work on his case.”). Plaintiff argues that “administrative remedies 1 were unavailable to him” because he has shown that “Defendants[‘] actions were ‘deliberate’ and 2 ‘by design’” such that he “clearly demonstrates that he attempted to file administrative remedies 3 but was thwarted” and filing administrative remedies “at any later date would be futile[.]” (Doc. 4 22 at 8, 9). Plaintiff further contends that the “failure to exhaust administrative remedies was not 5 clear on the face of the complaint.” (*Id.*). 6 Specifically, as to unavailability of administrative remedies, Plaintiff argues he alleges in 7 the complaint that he “did send a copout via institutional mail to the unit team requesting informal 8 resolution and administrative remedy forms” and that he “clearly states that the unit team ‘did not 9 provide any access to [such] forms during the time period.’” (*Id.* at 6) (citing Doc. 10 at 3). Plaintiff 10 further contends that “Defendants by design and intentionally did not provide [him] administrative 11 remedies[.]” (*Id.*) (citing Doc. 10 at 8). Plaintiff cites to *Williams v. Paramo*, 775 F.3d 1182 (9th

12 Cir. 2015) where the court found that a prisoner’s statements that she was thwarted from filing a

13 grievance and appeal met her burden, and that similarly here, Plaintiff “raised that his attempts to 14 secure remedies were thwarted intentionally – by design – [and] therefore there were no 15 administrative remedies available for exhaustion.” (*Id.*). 16 In *Williams*, the Ninth Circuit instructed that the appropriate means of determining whether 17 an inmate properly exhausted

administrative remedies is governed by” a “burden-shifting regime” 18 where “a defendant must first prove that there was an available administrative remedy and that the 19 prisoner did not exhaust that available remedy[.]” and “[t]hen, the burden shifts to the plaintiff, who 20 must show that there is something particular in his case that made the existing and generally 21 available administrative remedies effectively unavailable to him[.]” Williams, 775 F.3d at 1191 22 (citation omitted). A prisoner may show administrative remedies were unavailable to him by 23 “showing that the local remedies were ineffective, unobtainable, unduly prolonged, inadequate, or 24 obviously futile.” (Id.) (citation and quotation omitted) (emphasis added). The Court found the 25 prisoner-plaintiff “met her burden” by showing “that administrative remedies were not available to 26 her” because “she was thwarted from filing a grievance and appeal[.]” (Id. at 1192). The Williams 27 Court found that the plaintiff alleged in her complaint that she initially attempted to inform an 28 officer “about the facts alleged in her complaint” and after being denied help, she “then attempted 1 to file a grievance and an appeal” that another officer rejected and refused to file the appeal. (Id. 2 at 1191-92). 3 “[A]dministrative remedies must ... be ‘available’” to the prisoner. Ross v. Blake, 578 U.S. 4 632, 632 (2016). In Ross, the Supreme Court held that “an inmate is required to exhaust those, but 5 only those, grievance procedures that are ‘capable of use’ to obtain ‘some relief for the action 6 complained of.’” Ross, 578 U.S. at 642 (citing Booth, 532 U.S. at 738). The Court noted that there 7 are “three kinds of circumstances in which an administrative remedy ... is not capable of use to 8 obtain relief” and “when one (or more) [of these circumstances is present], an inmate’s duty to 9 exhaust ‘available’ remedies does not come into play.” (Id. at 643). The Ross Court described this 10 qualification (where an administrative remedy is deemed “unavailable” as follows: (1) where the 11 process “operates as a simple dead end—with officers unable or consistently unwilling to provide 12 any relief to aggrieved inmates”; (2) where the process is “so opaque that it becomes, practically 13 speaking, incapable of use”; and (3) where “prison administrators thwart inmates from taking 14 advantage of a grievance process through machination, misrepresentation, or intimidation” Storm 15 v. Officer of California Governor, No. 1:24-cv-00917-EPG (PC), 2024 WL 4216807, at *1-2 (E.D. 16 Cal. Sept. 17, 2024) (citing Ross, 578 U.S. at 639, 643-44). “[S]uch interference with an inmate’s 17 pursuit of relief renders the administrative process unavailable.” Id. 18 The facts in this case differ from those before the court in Williams. There, the inmate twice 19 transmitted a complaint to prison officials and on both occasions, prison officials affirmatively 20 refused to accept the complaints. Here, Plaintiff alleges the was unable to access forms for the 21 purpose of completing and submitting a grievance (not that his grievances were refused). Thus, as 22 the Court previously noted, Plaintiff at most has pleaded a temporary unavailability of 23 administrative remedies. See (Doc. 15 at 3) (citing cases). However, it remains unclear whether 24 this temporary unavailability crosses the “unduly prolonged” threshold the Ninth Circuit has held 25 (in dicta) constitutes an unavailability of administrative remedies. Williams, 775 F.3d at 1192. 26 Thus, liberally construing the allegations in Plaintiff’s complaint and based on Plaintiff’s

arguments 27 as to the unavailability of administrative remedies in his response to the order to show cause that 28 “his attempts to secure remedies were thwarted intentionally” and “by design,” the Court finds good 1 | cause to discharge the order to show cause. See *Creamer v. California State Prison Delano*, Case 2 | No. 1:23-cv-00139-CDB (PC), 2023 WL 2024859, at *1 (E.D. Cal. Feb. 15, 2023) (“Liberally 3 | construing this pro se filing, although not expressly stated, the Court understands Plaintiff to 4 | contend his failure to exhaust administrative remedies prior to filing suit is due to interference by 5 | prison officials with his efforts to complete the exhaustion process, thus making the exhaustion of 6 | administrative remedies unavailable to Plaintiff.”). As stated above and in the order to show cause, 7 | the failure to exhaust is an affirmative defense that Defendants must plead and prove. *Jones*, 549 8 | U.S. at 216; see (Doc. 13 at 2). Thus, the Court makes no finding as to Plaintiff’s access, recourse 9 | to, and exhaustion of administrative remedies at this stage of the proceedings, which may properly 10 | be addressed should this case proceed following screening of the complaint. See *Creamer*, 2023 11 | WL 2024859, at *1; e.g., *Kile v. Doerer*, Case No. 1:24-cv-01177-KES-SAB (PC), 2025 WL 12 | 604992, at *1 (E.D. Cal. Feb. 25, 2025) (“[B]ecause exhaustion of the administrative remedies is 13 | an affirmative defense, the Court makes no ruling as to whether Plaintiff has, in fact, exhausted the 14 | administrative remedies.”). 15 Plaintiffs complaint will be screened in due course. See 28 U.S.C. § 1915A. 16 Conclusion and Order 17 Accordingly, it is HEREBY ORDERED that the November 21, 2024, order to show cause 18 | (Doc. 13) is DISCHARGED. 19 | IT IS SO ORDERED. 70 | Dated: _ May 5, 2025 | hr

2] UNITED STATES MAGISTRATE JUDGE

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