

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

Kakowski v. SGT Gonzales

Kakowski · No. 24-cv-1314-AGS-BLM · Decided April 14, 2025

SUMMARY

The United States District Court for the Southern District of California denied Brian Kakowski’s motion for reconsideration of the dismissal of his access-to-courts claim. The court held that the claim failed because the amended complaint did not adequately describe the underlying failure-to-protect action, as required under *Christopher v. Harbury*.

CASE DETAILS

COURT	United States District Court for the Southern District of California
JURISDICTION	United States District Court for the Southern District of California
DECIDED	April 14, 2025
DOCKET	24-cv-1314-AGS-BLM
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for reconsideration of the court's screening dismissals of his access-to-courts claim in his first and second amended complaints.
STANDARD OF REVIEW	Reconsideration requires an appropriate basis such as newly discovered evidence, clear error, or an intervening change in controlling law; the court also reviewed the sufficiency of the access-to-courts claim.
PRECEDENTIAL VALUE	Unpublished, nonprecedential district court order
PARTIES	Brian Kakowski v. Correctional Sergeant Gonzales, et al.

TOPICS

- motion for reconsideration
- section 1983
- prisoners rights
- civil rights
- pleadings

PRACTICE AREAS

- Civil rights
- Prisoner litigation
- Federal civil procedure

QUESTIONS PRESENTED

1. Whether reconsideration should be granted based on Kakowski's allegation that he settled the underlying lawsuit for \$500 rather than the expected \$5,000.
2. Whether the access-to-courts claim was sufficiently pleaded when the complaint did not describe the underlying failure-to-protect claim.

HOLDINGS

1. Reconsideration was denied because Kakowski did not establish an appropriate basis for reconsideration, such as newly discovered evidence, clear error, or an intervening change in controlling law.
2. An access-to-courts claim fails when the complaint does not describe the underlying cause of action that officials allegedly frustrated.

KEY QUOTATIONS

“ “[T]he underlying cause of action” in an access-to-courts claim “is an element that must be described in the complaint just as much as allegations must describe the official acts frustrating the litigation.” ” (at 2)

“Because Kakowski’s second amended complaint contains no additional facts regarding the underlying failure-to-protect claim, his access-to-courts claim fails.” (at 2)

FACTUAL BACKGROUND

Kakowski alleged that defendants interfered with a separate lawsuit against prison personnel for failing to protect him from Hepatitis-C exposure. In his second amended complaint, he added that he settled the prior case for \$500 and sought compensation for the \$4,500 difference between that amount and his expected settlement. He did not add facts describing the underlying failure-to-protect claim.

PROCEDURAL HISTORY

Kakowski asserted that prison personnel interfered with a separate failure-to-protect lawsuit concerning Hepatitis-C exposure. The court dismissed the access-to-courts claim on screening because the allegations did not adequately identify the remedy sought. After Kakowski alleged that he had settled the underlying case for \$500 rather than an expected \$5,000, he moved for reconsideration; the court denied the motion because the claim remained deficient on the merits and the motion also lacked an appropriate reconsideration basis.

DISPOSITION

other

CASES CITED

- School Dist. No. 1J v. ACandS, Inc., 5 F.3d 1255, 1263 (9th Cir. 1993)
- Christopher v. Harbury, 536 U.S. 403, 415, 417 (2002)

OPINION

Kakowski v. SGT Gonzales

PER CURIAM.

1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF CALIFORNIA

3 Brian KAKOWSKI, Case No.: 24-cv-1314-AGS-BLM

CDCR #BF-3315,

4 ORDER DENYING

Plaintiff,

RECONSIDERATION MOTION

5 v. (ECF 16) 6 Correctional Sergeant GONZALES, et al., 7 Defendants. 8 9 In both his first and
second amended complaints, plaintiff Brian Kakowski brought 10 an access-to-courts claim,
claiming that defendants in this case interfered with a different, 11 ongoing lawsuit against prison
personnel for failure to protect him from Hepatitis-C 12 exposure. (ECF 6-1, at 10–11; ECF 13, at
4.) Each time, this Court dismissed the 13 access-to-courts claim on screening, finding Kakowski’s
deficient allegations left the Court 14 “to guess at the remedy being sought.” (ECF 12, at 8
(cleaned up); ECF 14, at 4 15 (cleaned up).) Now Kakowski seeks reconsideration, pointing out
that in his second 16 amended complaint he added allegations that he settled his prior case “for
500 dollars” and 17 “would like to be compensated for” the 4,500-dollar difference between his
expected and 18 actual settlement amount. (ECF 16, at 1.) Overlooking for the moment
Kakowski’s fatal 19 failure to set forth an appropriate basis for reconsideration—such as “newly
discovered 20 evidence,” “clear error,” or “an intervening change in controlling law”—
Kakowski’s 21 access-to-courts claim falls short on the merits. See *School Dist. No. 1J v. ACandS,*
Inc., 22 5 F.3d 1255, 1263 (9th Cir. 1993). 23 “[T]he underlying cause of action” in an access-to-
courts claim “is an element that 24 must be described in the complaint just as much as allegations
must describe the official 25 acts frustrating the litigation.” *Christopher v. Harbury*, 536 U.S. 403,
415 (2002) (cleaned 26 up). Simply put, “the complaint should state the underlying claim” “just as
if it were being 27 independently pursued.” *Id.* at 417. Because Kakowski’s second amended
complaint 28 1 |} contains no additional facts regarding the underlying failure-to-protect claim, his
2 || access-to-courts claim fails. Reconsideration is DENIED. 3 || Dated: April 14, 2025 5 Hon. rew
G. Schopler United States District Judge 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25
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