

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PRECEDENTIAL VALUE	Unpublished, nonprecedential district court order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)

