

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

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 26 27 28

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/united-states-district-court-for-the-southern-district-of-california-united-states-district-court-fo/2025/kakowski-v-sgt-gonzales-epjwhtut>