

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Jonathan Kohut v. M. Martin, et al.

Kohut v. Martin · No. 1:22-cv-00472-KES-HBK · Decided November 10, 2025

OPINION

Martin

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 JONATHAN KOHUT, Case No. 1:22-cv-00472-KES-HBK 12 Plaintiff, ORDER
ADOPTING IN PART FINDINGS

AND RECOMMENDATIONS

13 v. Doc. 15 14 M. MARTIN, et al., 15 Defendants. 16 17 Plaintiff Jonathan Kohut is a state
prisoner proceeding pro se and in forma pauperis on his 18 first amended complaint (“FAC”) filed
pursuant to 42 U.S.C. § 1983. Doc. 13. The matter was 19 referred to a United States magistrate
judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 20 302. 21 Plaintiff alleges that,
following his involvement in a fight in April 2021 at Pleasant Valley 22 State Prison, he was
charged with a rule violation and was found guilty following a disciplinary 23 hearing in May
2021. Doc. 13 at 4–8. Plaintiff alleges various procedural violations from that 24 disciplinary
hearing, including that the hearing officer, defendant D. May, allegedly refused to 25 allow
witness testimony that plaintiff requested and failed to state a reason for the refusal. Id. at 26 10–
11. Plaintiff asserts that his guilty finding resulted in a “loss of good conduct credits” and a 27
“violent guilty finding being currently maintained in [his] central file.” Id. at 6. As a result, 28
plaintiff contends that his standing before the Board of Parole Hearings (“BPH”) and prospects of
1 parole have been adversely affected. Id. Plaintiff brings federal claims under Section 1983 for a
2 violation of his Fourteenth Amendment right to procedural due process and a related conspiracy
3 charge, and various state law claims. See generally Doc. 13. 4 On December 28, 2023, the
assigned magistrate judge screened plaintiff’s FAC and issued 5 findings and recommendations
that plaintiff’s action be dismissed for failure to state a cognizable 6 federal claim. Doc. 15.
Specifically, the magistrate judge found that plaintiff failed to state a 7 Fourteenth Amendment
due process claim because (1) plaintiff lacked a protected liberty interest 8 in his loss of good-time
credits, (2) even if plaintiff had such an interest, his due process rights 9 were not violated, and (3)
even if his due process rights were violated, plaintiff’s action is barred 10 by Heck v. Humphrey,
512 U.S. 477 (1994), and is therefore not cognizable under section 1983. 11 See generally id. The

magistrate judge also found that plaintiff failed to state specific facts that 12 would support the existence of a conspiracy. Having found that the FAC failed to state a federal 13 claim, the magistrate judge recommended that plaintiff's state law claims be dismissed. *Id.* at 14– 14 15. After he was granted an extension of time, plaintiff filed objections. Doc. 18. 15 In accordance with 28 U.S.C. § 636(b)(1), this Court has reviewed this matter de novo. 16 Having carefully reviewed the matter, including plaintiff's objections, the Court adopts the 17 findings and recommendations in part and refers this matter back to the assigned magistrate judge 18 for screening of plaintiff's FAC consistent with this Order. The findings and recommendations 19 correctly found that plaintiff failed to plausibly state a conspiracy claim. However, plaintiff states 20 a cognizable claim under section 1983 that his Fourteenth Amendment procedural due process 21 rights were violated based on his allegations that defendant May failed to allow him to call 22 witnesses at his disciplinary violation hearing and failed to identify any reason for the denial of 23 his request. 24 To state a procedural due process claim, a plaintiff must allege "(1) a liberty or property 25 interest protected by the Constitution; (2) a deprivation of the interest by the government; [and] 26 (3) lack of process." *Portman v. County of Santa Clara*, 995 F.2d at 898, 904 (9th Cir. 1993). In 27 disciplinary proceedings, a prisoner does not receive "the full panoply of rights due a [criminal] 28 defendant." *Wolff v. McDonnell*, 418 U.S. 539, 556 (1974). However, where a state has 1 "provided a statutory right to good time but also specifies that it is to be forfeited only for serious 2 misbehavior," a prisoner may assert a liberty interest under the Fourteenth Amendment that 3 "entitle[s] him to those minimum procedures appropriate under the circumstances and required by 4 the Due Process Clause to insure that the state-created right is not arbitrarily abrogated." *Id.* at 5 557. In California, good time credits are statutorily granted entitlements that may be denied for 6 certain disciplinary offenses or other serious misconduct. Cal. Penal Code §§ 2931–33 (West). 7 Therefore, plaintiff had a protected liberty interest in his good time credits. See *Lane v. Salazar*, 8 911 F.3d 942, 950–51 (9th Cir. 2018) ("[Prisoner] has a liberty interest in his good time credits, 9 and may therefore only be deprived of those credits if afforded due process."); *Hayward v. 10 Marshall*, 603 F.3d 546, 556 (9th Cir. 2010) ("Because it is ordinarily a fixed, specific 11 entitlement lost on the basis of misconduct, good time is a right to liberty, that is, release from 12 prison, that can be taken from the prisoner only with due process of law."), overruled on other 13 grounds by *Swarthout v. Cooke*, 562 U.S. 216 (2011). Therefore, plaintiff plausibly alleges a 14 deprivation of his protected interest in his good time credits. 15 As to whether plaintiff plausibly alleges a deprivation of that protected interest through 16 lack of process, plaintiff contends that, despite his request that four witnesses testify at his Rules 17 Violation Report ("RVR") disciplinary hearing, defendant May "both failed to summon the 18 witnesses requested, and moreover, failed to enter any reason in the findings that would explain 19 the reasoning relied upon for such a denial." Doc. 13 at 6. A prisoner facing disciplinary 20 proceedings "should be allowed to call witnesses and present documentary evidence in his 21 defense when permitting him to do so will not be unduly hazardous to institutional safety or 22

correctional goals.” Wolff, 418 U.S. at 566. While, in their discretion, prison officials may deny such a request, the “Due Process Clause of the Fourteenth Amendment requires that prison officials at some point state their reason for refusing to call witnesses requested by an inmate at a disciplinary hearing.” *Ponte v. Real*, 471 U.S. 491, 492 (1985). Liberally construing plaintiff’s complaint, plaintiff contends that he was never informed of any reason as to why his request for witnesses was denied. See *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000) (“In general, 1 courts must construe pro se pleadings liberally.”).¹ 2 Plaintiff states a cognizable claim for a violation of his Fourteenth Amendment right to 3 procedural due process, based on defendant May’s alleged refusal to grant his request for witness 4 testimony at his RVR hearing and May’s alleged refusal to provide any explanation for that 5 decision. See *Serrano v. Francis*, 345 F.3d 1071, 1080 (9th Cir. 2003) (finding due process 6 violation where prison official offered no reason for refusing to allow live witness testimony on 7 prisoner’s behalf); see also *Napier v. Swarthout*, No. 2:12-cv-1521-JAM-DAD, 2014 WL 8 1839129, at *9 (E.D. Cal. May 8, 2014) (“[W]hen prison officials refuse to call witnesses 9 requested by a prisoner at a disciplinary hearing, they must explain their reasons, either as part of 10 the administrative record or by later testimony in court.”) (citing *Ponte*, 471 U.S. at 497).² 11 Plaintiff’s claim is not barred by Heck and is properly brought under section 1983. See

12 Doc. 15 at 8–9. Plaintiff alleges that his disciplinary record and loss of good-time credits will 13 adversely affect his likelihood of future parole. Doc. 13 at 6. Where “the invalidity of the 14 disciplinary proceedings, and therefore the restoration of good-time credits, would not necessarily 15 affect the length of time to be served, then the claim falls outside the core of habeas and may be 16 brought in § 1983.” *Nettles v. Grounds*, 830 F.3d 922, 929 (9th Cir. 2016) (discussing 17 *Muhammad v. Close*, 540 U.S. 749 (2004)). As the magistrate judge noted, it was unclear from 18 plaintiff’s FAC whether he is serving an indeterminate or determinate sentence. Doc. 15 at 7. In 19 his objections, plaintiff confirmed that he is “in fact an indeterminately sentenced individual 20 serving a sentence of 15 to life.” Doc. 18 at 2.³ In such cases, a restoration of good time credits 21 1 As the findings and recommendations did, the Court construes plaintiff’s contention that defendant May “failed to summon the witnesses requested” and “failed to enter any reason in the 22 findings that would explain the reasoning relied upon for such a denial,” Doc. 13 at 6, to assert 23 that plaintiff was never informed as to why his requested witnesses were not called. 24 2 The magistrate judge correctly found, for the reasons set forth in the findings and recommendations, that plaintiff failed to state a claim as to his remaining due process violation 25 theories, which included: (1) the filing of a false disciplinary report, (2) a lack of sufficient evidence to find plaintiff guilty of a violation, and (3) a failure to reverse plaintiff’s guilty 26 finding. Doc. 15 at 9–14. Additionally, the Court agrees with the findings and recommendations 27 that plaintiff failed to state a cognizable conspiracy claim. 28 3 See *United States v. Howell*, 231 F.3d 615, 621 (9th Cir. 2000) (concluding that “a district court 1 or more favorable standing with the BPH would not necessarily shorten plaintiff’s sentence. See 2 *Brookins v. California*, No. 1:17-cv-01724-LJO-

JDP, 2019 WL 506114, at *2 (E.D. Cal. Jan. 17, 3 2019), report and recommendation adopted, 2019 WL 499102 (E.D. Cal. Feb. 8, 2019) (finding 4 that habeas petitioner’s claims “fail[ed]” for the “simple reason” that he was serving an 5 indeterminate sentence and his “claims cannot lead to his immediate or earlier release unless the 6 Board finds him suitable for parole.”); c.f. Wilkerson v. Wheeler, 772 F.3d 834, 841 (9th Cir. 7 2014) (finding Heck bar did not apply to plaintiff serving an indefinite life sentence where “[a]ny 8 loss of good-time credits could not extend his potential term, which is life in prison.”). As to the 9 impact of the rules violation finding on plaintiff’s prospects of parole, the Ninth Circuit discussed 10 a similar circumstance in Nettles, holding that as a “rules violation is merely one of the factors 11 shedding light” on a prisoner’s ability to be granted parole, invalidation of the prisoner’s guilty 12 finding would “not necessarily lead to his immediate or earlier release from confinement,” and is 13 therefore properly brought under section 1983. Nettles, 830 F.3d at 935. 14 Accordingly, plaintiff’s FAC states a cognizable claim under section 1983 for a violation 15 of his right to procedural due process arising from his May 2021 disciplinary hearing. As the 16 magistrate judge found that plaintiff failed to state a cognizable federal claim, the findings and 17 recommendations did not consider plaintiff’s state law claims. Doc. 15 at 15. As the Court finds 18 that plaintiff states a cognizable Fourteenth Amendment due process claim, this matter is referred 19 back to the assigned magistrate judge for further screening of plaintiff’s state law claims. 20 /// 21 /// 22 /// 23 /// 24 /// 25 /// 26 /// 27 has discretion, but is not required, to consider evidence presented for the first time in a party’s 28 objection to a magistrate judge’s recommendation.”). 1 Accordingly: 2 1. The Court adopts in part the findings and recommendations issued December 28, 3 2023, Doc. 15; and 4 2. This matter is referred back to the assigned magistrate judge for further screening of 5 plaintiff’s state law claims in his FAC, Doc. 13, and further proceedings consistent 6 with this Order. 7 8

g | SO ORDERED. _

10 Dated: _ November 10, 2025 4h

UNITED STATES DISTRICT JUDGE

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