

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Bess v. Peffley

No. 22-cv-00341-JSC (N.D. Cal. Aug. 2, 2023) · No. 22-cv-00341-JSC · Decided August 2, 2023

SUMMARY

The United States District Court for the Northern District of California partially grants and partially denies the defendant’s motion for summary judgment in a prisoner civil-rights action under 42 U.S.C. § 1983. The court grants summary judgment on the retaliation theory based on the plaintiff’s refusal to act as an informant, but finds triable issues concerning retaliation for expressing an intent to file a grievance and concerning the Eighth Amendment claim. The court also grants leave to file a sur-reply and refers the stayed case to the court’s Prisoner Mediation Program.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Jacqueline Scott Corley
JURISDICTION	United States District Court for the Northern District of California
DECIDED	August 2, 2023
DOCKET	22-cv-00341-JSC
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, a self-represented California prisoner, brought claims under 42 U.S.C. § 1983. Defendant moved for summary judgment, and plaintiff moved for leave to file a sur-reply.
STANDARD OF REVIEW	Summary judgment is appropriate when the pleadings, discovery, and affidavits show no genuine dispute of material fact and the moving party is entitled to judgment as a matter of law. The court views the evidence in the light most favorable to the nonmoving party and draws reasonable inferences in that party’s favor. Exhaustion ordinarily is decided on summary judgment. Qualified immunity requires determining whether the plaintiff alleged a constitutional violation and whether the right was clearly established.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Daniel Bess v. J. Peffley

TOPICS

section 1983

prisoners rights

summary judgment

first amendment

civil procedure

PRACTICE AREAS

civil rights

prisoner litigation

constitutional law

civil procedure

QUESTIONS PRESENTED

1. Whether Plaintiff exhausted administrative remedies for his Eighth Amendment claim.
2. Whether the evidence created triable issues on Plaintiff's First Amendment retaliation claim based on his refusal to become a snitch.
3. Whether the evidence created triable issues on Plaintiff's First Amendment retaliation claim based on his expressed intent to file a grievance.
4. Whether Defendant was entitled to qualified immunity on the Eighth Amendment claim and the surviving retaliation theory.

HOLDINGS

1. Plaintiff's grievance adequately exhausted his Eighth Amendment claim because it described Defendant's attempt to force him to provide information by threatening significant harm, even though it did not use the terms 'Eighth Amendment' or 'deliberate indifference.'
2. Plaintiff's refusal to become a snitch was not constitutionally protected conduct for purposes of a First Amendment retaliation claim, so Defendant was entitled to summary judgment on that theory.
3. Summary judgment was denied because triable issues existed as to whether Defendant took adverse action against Plaintiff because Plaintiff expressed an intent to file a grievance.
4. Defendant was not entitled to qualified immunity on Plaintiff's Eighth Amendment claim because, viewing the evidence in Plaintiff's favor, pressuring him to become a snitch by threatening significant harm implicated a clearly established right to be free from deliberate indifference to a substantial risk of serious harm.

KEY QUOTATIONS

"The purpose of a grievance is to alert the prison to a problem and facilitate its resolution." (Discussion, II.2)

"There is no constitutional right not to snitch." (Discussion, II.3)

"a prisoner need not wait until he is actually assaulted or harmed to state a claim and obtain relief; deliberate indifference to a substantial risk of harm is sufficient." (Discussion, II.4)

FACTUAL BACKGROUND

During a February 4, 2021 cell search, Sergeant J. Peffley allegedly asked Plaintiff to provide information about security-threat-group activity and threatened to validate him as a gang member, place damaging confidential

memoranda in his prison file, and identify him as a snitch if he refused. Plaintiff asserted that these threats exposed him to a substantial risk of harm from other prisoners and were made in response to his statement that he would file a grievance. Confidential memoranda later appeared in Plaintiff's central file and were sent to the parole board, although Defendant denied involvement and other officials disputed Plaintiff's account. Plaintiff filed a grievance that prison officials ultimately marked as exhausted after the response period expired.

PROCEDURAL HISTORY

Plaintiff filed claims alleging that Defendant threatened to force him to provide information about other inmates and retaliated against him for expressing an intent to file a grievance. Defendant moved for summary judgment, arguing, among other things, failure to exhaust the Eighth Amendment claim, lack of evidence supporting retaliation, and qualified immunity. The court granted leave to file the sur-reply, granted summary judgment in part on the retaliation theory based on plaintiff's refusal to become a snitch, denied summary judgment on the remaining claims, and referred the case to the Pro Se Prisoner Mediation Program while staying further proceedings.

DISPOSITION

other

CASES CITED

- Schroeder v. McDonald, 55 F.3d 454, 460-61 (9th Cir. 1995)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986)
- Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986)
- Tolan v. Cotton, 570 U.S. 650, 656-57 (2013)
- Hunt v. Cromartie, 526 U.S. 541, 552 (1999)
- Albino v. Baca, 747 F.3d 1162, 1166 (9th Cir. 2014)
- Morton v. Hall, 599 F.3d 942, 946 (9th Cir. 2010)
- O'Guinn v. Lovelock Correctional Center, 502 F.3d 1056, 1061 (9th Cir. 2007)
- Griffin v. Arpaio, 557 F.3d 1117, 1120 (9th Cir. 2009)
- Farmer v. Brennan, 511 U.S. 825, 832-34, 842, 845 (1994)
- Rhodes v. Robinson, 408 F.3d 559, 567-69 & n.11 (9th Cir. 2005)
- Paguio v. Acosta, 114 F.3d 928, 930 (9th Cir. 1997)
- United States v. Gardner, 611 F.2d 770, 773 (9th Cir. 1979)
- Shepard v. Quillen, 840 F.3d 686, 688-91 (9th Cir. 2016)
- Pearson v. Callahan, 555 U.S. 223, 232, 236 (2009)
- Entler v. Gregoire, 872 F.3d 1031, 1034, 1038-40 (9th Cir. 2017)
- Gonzalez v. CDCR, 739 F.3d 1226, 1229, 1235 (9th Cir. 2014)
- Valandingham v. Bojorquez, 866 F.2d 1135, 1138 (9th Cir. 1989)
- Lujan v. Defenders of Wildlife, 504 U.S. 555, 560-61 (1992)

- *Oltarzewski v. Ruggiero*, 830 F.2d 136, 139 (9th Cir. 1987)

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