

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
CALIFORNIA

Harris v. City of Madera

No. 1:22-cv-00660 JLT GSA (PC) (E.D. Cal. July 29, 2025) · No. 1:22-cv-00660 JLT GSA (PC) · Decided July 29, 2025

SUMMARY

In this order, the United States Magistrate Judge directs a state prisoner to show cause why his amended 42 U.S.C. § 1983 action should not be summarily dismissed. The court identifies apparent untimeliness based on claims arising in 2016 and failure to exhaust available administrative remedies under the Prison Litigation Reform Act. The plaintiff is given fourteen days either to show cause or voluntarily dismiss the action.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                          |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Eastern District of California                                                                                                                                                                                                                                                      |
| WRITING FOR THE COURT | Gary S. Austin                                                                                                                                                                                                                                                                                                           |
| JURISDICTION          | United States District Court for the Eastern District of California                                                                                                                                                                                                                                                      |
| DECIDED               | July 29, 2025                                                                                                                                                                                                                                                                                                            |
| DOCKET                | 1:22-cv-00660 JLT GSA (PC)                                                                                                                                                                                                                                                                                               |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                                                    |
| PROCEDURAL POSTURE    | The court screened Plaintiff's first amended complaint in a prisoner civil-rights action under 42 U.S.C. § 1983 and ordered Plaintiff to show cause why the matter should not be summarily dismissed as untimely and for failure to exhaust administrative remedies, or alternatively to voluntarily dismiss the action. |
| STANDARD OF REVIEW    | Screening review of a prisoner complaint under the applicable federal statutes and rules; the court considered apparent defects on the face of the amended complaint.                                                                                                                                                    |
| PRECEDENTIAL VALUE    | Unpublished district-court order; precedential status unknown                                                                                                                                                                                                                                                            |
| PARTIES               | Daniel Jafain Harris v. City of Madera, Madera Sheriff Department, Madera County Department of Corrections, Luz Romero, Christine Najiri                                                                                                                                                                                 |

TOPICS

statute of limitations

prisoners rights

section 1983

civil procedure

motions to dismiss

## PRACTICE AREAS

prisoner civil rights

civil procedure

statute of limitations

administrative exhaustion

municipal liability

## QUESTIONS PRESENTED

1. Whether the first amended complaint appeared barred by the applicable four-year limitations period, including available statutory and equitable tolling.
2. Whether Plaintiff's failure to exhaust the available Madera County Jail administrative-remedy process required dismissal under the Prison Litigation Reform Act.
3. Whether the first amended complaint improperly asserted claims against new defendants and unrelated claims not raised in the original complaint.

## HOLDINGS

1. The action appeared untimely because the alleged injury accrued on September 29, 2016, the applicable limitations period, including the available two-year prisoner tolling period, expired no later than September 29, 2020, and Plaintiff's complaint was not constructively filed until April 29, 2022.
2. The amended complaint appeared subject to dismissal for failure to exhaust administrative remedies because it acknowledged an available jail grievance process but admitted that Plaintiff did not use it and did not plausibly establish that the process was unavailable.
3. The amended complaint's assertion of claims against defendants and based on conduct not included in the original complaint was an additional ground supporting dismissal.

## KEY QUOTATIONS

*"Plaintiff will be ordered to show cause why this matter should not be summarily dismissed as untimely and for failure to exhaust administrative remedies." (8)*

*"Plaintiff's contradictory statements that there is an administrative remedy process at the jail, but that he did not use the process because 'remedies for complaint are unavailable at institution, facility or prison,' without more, does not, consistent with Ross, sufficiently excuse the fact that he has not exhausted his administrative remedies." (14)*

*"In sum, because: (1) Plaintiff's complaint was filed well beyond the four-year statute of limitations period, and (2) it is clear on the face of the FAC that Plaintiff did not exhaust his administrative remedies, and that he has provided no viable excuse under Ross for not having done so, the Court must recommend that this matter be summarily dismissed." (20)*

## FACTUAL BACKGROUND

Plaintiff, a California state prisoner proceeding pro se and in forma pauperis, alleged that on September 29, 2016, Luz Romero and Christine Najiri arranged an unauthorized visit with Klara Bess to entrap him and obtain incriminating information related to a criminal conviction. He asserted due-process, negligence, misconduct,

liberty, civil-rights, and constitutional claims under 42 U.S.C. § 1983. The amended complaint acknowledged that an inmate appeal process was available at the Madera County Jail but stated that Plaintiff had not filed an appeal or grievance because he believed remedies were unavailable.

## PROCEDURAL HISTORY

Plaintiff filed an original complaint on April 29, 2022, alleging constitutional and related violations arising from events in 2016 and 2017. The court previously found the original complaint deficient for lack of specific facts, failure to identify an actionable governmental policy or procedure, and failure to plead a viable municipal-liability theory, and allowed amendment. Plaintiff filed a first amended complaint naming the City of Madera and adding two new individual defendants. The court determined that the amended pleading appeared untimely and that Plaintiff admitted he had not pursued available jail grievance procedures, then issued an order to show cause rather than entering a final dismissal.

## DISPOSITION

other

## CASES CITED

- Lukovsky v. City and County of San Francisco, 535 F.3d 1044, 1048
- Two Rivers v. Lewis, 174 F.3d 987, 991
- Fink v. Shedler, 192 F.3d 911, 914
- Jones v. Blanas, 393 F.3d 918, 927
- Hardin v. Straub, 490 U.S. 536, 539, 109 S.Ct. 1998, 2000
- Donoghue v. County of Orange, 848 F.2d 926, 930-31
- Addison v. State of California, 21 Cal.3d 313, 318
- Brown v. Valoff, 422 F.3d 926, 943
- McDonald v. Antelope Valley Cmty. Coll. Dist., 45 Cal. 4th 88, 101
- Elkins v. Derby, 12 Cal. 3d 410, 414
- Albino v. Baca, 747 F.3d 1162, 1171
- Woodford v. Ngo, 548 U.S. 81, 85
- Rhodes v. Robinson, 621 F.3d 1002, 1005
- Ross v. Blake, 578 U.S. 632, 639, 642-44
- George v. Smith, 507 F.3d 605, 607
- Roberts v. Marshall, 627 F.3d 768, 769 n.1
- Jenkins v. Johnson, 330 F.3d 1146, 1149 n.2
- Pace v. DiGuglielmo, 544 U.S. 408

## OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF  
CALIFORNIA 10 11 DANIEL JAFAIN HARRIS, No. 1:22-cv-00660 JLT GSA (PC) 12 Plaintiff,  
ORDER DIRECTING PLAINTIFF TO SHOW CAUSE WHY THIS MATTER SHOULD NOT  
13 v. BE SUMMARILY DISMISSED AS UNTIMELY FILED AND FOR FAILURE TO 14 CITY  
OF MADERA, et al., EXHAUST ADMINISTRATIVE REMEDIES 15 Defendants.

(ECF No. 20) 16 PLAINTIFF'S SHOWING OF CAUSE OR, IN THE ALTERNATIVE, HIS  
VOLUNTARY 17 DISMISSAL OF THIS MATTER DUE IN FOURTEEN DAYS 18 19 Plaintiff,  
a state prisoner proceeding pro se and in forma pauperis, has filed this civil 20 rights action  
seeking relief under 42 U.S.C. § 1983.

The matter was referred to a United States 21 Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)  
(B) and Local Rule 302. 22 Before this Court is Plaintiff's first amended complaint. ECF No. 20.  
For the reasons 23 stated below, Plaintiff will be ordered to show cause why this matter should not  
be summarily 24 dismissed as untimely and for failure to exhaust administrative remedies.

Plaintiff's showing of 25 cause or, in the alternative, his voluntary dismissal of this matter due in  
fourteen days. 26 27 28 1 I. RELEVANT FACTS 2 On May 20, 2025, Plaintiff's complaint was  
screened. ECF No. 17. The complaint 3 named the City of Madera; the Madera Sheriff  
Department, and the Madera County Department 4 of Corrections as Defendants, and it raised  
general violations of right stemming from Defendants' 5 alleged violations of government policies  
related to the California Law Enforcement 6 Telecommunications System ("CLETS"), and acts of  
negligence related to his federal rights.

See 7 ECF No. 1 at 1-3. It alleged that the violations of right occurred from September 29, 2016, 8  
through October 23, 2017, and that the alleged violations were ongoing. See id. at 6. 9 In the  
screening order, the Court found that the pleading failed to state a claim upon which 10 relief  
could be granted because it contained no specific facts and because it failed to identify the 11  
governmental policy and/or procedure that Defendants were alleged to have violated.

See ECF 12 No. 17 at 5. In addition, the Court found that Plaintiff's allegations against entities  
like the 13 sheriff's department were not actionable under Section 1983 for the actions of an  
employee, and 14 that absent a showing of a clear policy or custom, a municipality could not be  
held liable under 15 Section 1983, either. Id. at 5-6. 16 Based on these findings, the Court found  
that the complaint failed to state any claim upon 17 which relief could be granted, and Plaintiff  
was given the opportunity to file an amended 18 complaint.

ECF No. 17 at 8-9. He was given thirty days to do so. At that time, Plaintiff was 19 given  
instruction with respect to what his amended complaint should contain if he chose to file 20 one.  
Id. at 8. He was also sent a copy of the Court's Civil Rights Complaint By a Prisoner form 21 to

use when filing the amended complaint. See *id.* at 9. 22 II. PLAINTIFF’S FIRST AMENDED COMPLAINT 23 Plaintiff has filed a first amended complaint.

ECF No. 20. In it, Plaintiff names the City 24 of Madera again as a Defendant. See *id.* at 1. However, he also names two completely different 25 Defendants who were not mentioned in the original complaint: Luz Romero, the Administration 26 27 28 1 Supervisor for the Madera Department of Correction, and Christine Najiri<sup>1</sup> of the Madera County 2 District Attorney’s Office.

*Id.* at 2-3. 3 In Plaintiff’s two claims in the FAC, he essentially alleges that Defendants Romero and 4 Najiri violated his due process rights and engaged in negligence, illegal misconduct, and the 5 deprivation of his liberty, civil and constitutional rights when, on September 29, 2016, they 6 conspired to and arranged unauthorized visitation between himself and one Klara Bess, for the 7 purpose of entrapment and the gathering incriminating information against him related to a 8 criminal conviction.

ECF No. 20 at 3-4. 9 Plaintiff’s FAC also clearly states that there was an inmate appeal process available to him 10 at the Madera County Jail, but that he did not file an appeal or a grievance related to his two 11 claims because “remedies for complaint are unavailable at institution, facility or prison.” ECF 12 No. 20 at 2 (errors in original). 13 III. APPLICABLE LAW 14 A. Statute of Limitations to File a Complaint 15 In federal court, federal law determines when a claim accrues, and “under federal law, a 16 claim accrues ‘when the plaintiff knows or has reason to know of the injury which is the basis of 17 the action.’” *Lukovsky v. City and County of San Francisco*, 535 F.3d 1044, 1048 (9th Cir.

18 2008) (quoting *Two Rivers v. Lewis*, 174 F.3d 987, 991 (9th Cir. 1999); *Fink v. Shedler*, 192 19 F.3d 911, 914 (9th Cir. 1999)). In the absence of a specific statute of limitations, federal courts 20 should apply the forum state’s statute of limitations for personal injury actions. *Lukovsky*, 535 21 F.3d at 1048; *Jones v. Blanas*, 393 F.3d 918, 927 (2004); *Fink*, 192 F.3d at 914.

California’s two- 22 year statute of limitations for personal injury actions applies to 42 U.S.C. § 1983 claims. See 23 *Jones*, 393 F.3d at 927. California’s statute of limitations for personal injury actions requires that 24 the claim be filed within two years. Cal. Code Civ. Proc., § 335.1. 25 In actions where the federal court borrows the state statute of limitations, the court should 26 also borrow all applicable provisions for tolling the limitations period found in state law.

See 27 1 It is unclear what the correct spelling of this Defendant is. Plaintiff’s handwriting is not legible. 28 See ECF No. 20 at 3. 1 *Hardin v. Straub*, 490 U.S. 536, 539, 109 S.Ct. 1998, 2000 (1989). Pursuant to California Code 2 of Civil Procedure, § 352.1, a two-year limit on tolling is imposed on prisoners. Section 352.1 3 provides, in pertinent part, as follows: 4 (a) If a person entitled to bring an action,... is, at the time the cause of action 5 accrued, imprisoned on a criminal

charge, or in execution under the sentence of a criminal court for a term less than for life, the time of that disability is not a part of the time limited for the commencement of the action, not to exceed two years.

Cal. Code Civ. Proc., § 352.1. The equitable tolling doctrine also tolls the statute of limitations while exhaustion occurs. *Donoghue v. County of Orange*, 848 F.2d 926, 930-31 (9th Cir. 1988); *Addison v. State of California*, 21 Cal.3d 313, 318 (1978). Additionally, whether an inmate is entitled to equitable tolling is decided by state law except to the extent that it is inconsistent with federal law.

*Jones*, 393 F.3d at 927. The Ninth Circuit has recognized that prisoners relying on the California statute of limitations are entitled to equitable tolling of the statute of limitations while completing the mandatory exhaustion process. See *Brown v. Valoff*, 422 F.3d 926, 943 (9th Cir. 2005). “Where exhaustion of an administrative remedy is mandatory prior to filing suit, equitable tolling is automatic: ‘It has long been settled in this and other jurisdictions that whenever the exhaustion of administrative remedies is a prerequisite to the initiation of a civil action, the running of the limitations period is tolled during the time consumed by the administrative proceeding.’” *McDonald v. Antelope Valley Cmty.*

Coll. Dist., 45 Cal. 4th 88, 101 (2008) (quoting *Elkins v. Derby*, 12 Cal. 3d 410, 414 (1974); cf. Code Civ. Proc. § 356 [tolling applies whenever commencement of an action is statutorily prohibited].) B. Exhaustion Requirement The claims of inmates who challenge their conditions of confinement are subject to the Prison Litigation Reform Act (“PLRA”), 42 U.S.C. § 1997e(a). “The PLRA mandates that inmates exhaust all available administrative remedies before filing ‘any suit challenging prison conditions,’ including, but not limited to, suits under [Section] 1983.” *Albino v. Baca*, 747 F.3d 1162, 1171 (9th Cir.

2014) (brackets added) (quoting *Woodford v. Ngo*, 548 U.S. 81, 85 (2006)); 2 *Rhodes v. Robinson*, 621 F.3d 1002, 1005 (9th Cir. 2010) (“[A] prisoner must exhaust his administrative remedies... before that complaint is tendered to the district court.”). There are a few exceptions to this rule. See *Ross v. Blake*, 578 U.S. 632, 643-44 (2016) (exceptions to exhaustion requirement).

6 “Under § 1997e(a), the exhaustion requirement hinges on the ‘availab[ility]’ of administrative remedies: An inmate... must exhaust available remedies, but need not exhaust unavailable ones.” *Ross*, 578 U.S. at 642 (brackets in original).

In discussing availability in *Ross*, the Supreme Court identified three circumstances in which administrative remedies were unavailable: (1) where an administrative remedy “operates as a simple dead end” in which officers are “unable or consistently unwilling to provide any relief to aggrieved inmates;” (2) where an administrative scheme is “incapable of use” because “no ordinary prisoner can discern or navigate it;” and (3) where “prison administrators thwart

inmates from taking advantage of a 14 grievance process through machination, misrepresentation, or intimidation.” Ross, 578 U.S. at 15 644. “[A]side from [the unavailability] exception, the PLRA’s text suggests no limits on an 16 inmate’s obligation to exhaust – irrespective of any ‘special circumstances.’ ” Id. at 639.

17 “[M]andatory exhaustion statutes like the PLRA establish mandatory exhaustion regimes, 18 foreclosing judicial discretion.” Id. at 632. 19 IV. DISCUSSION 20 A. Plaintiff’s Complaint is Untimely 21 Irrespective of the fact that Plaintiff’s FAC impermissibly raises claims that were not 22 raised in the original complaint – which is also grounds for dismissal (see generally *George v. 23 Smith*, 507 F.3d 605, 607 (7th Cir.

2007)) (stating no unrelated claims may be filed in amended 24 complaint), this matter must be summarily dismissed for two independent threshold reasons. 25 First, the FAC is untimely. In both claims, Plaintiff states that the incidents in question occurred 26 on September 29, 2016. See ECF No. 20 at 3-4.

Thus, absent any tolling to exhaust 27 administrative remedies – which Plaintiff’s FAC clearly states he never did – Plaintiff’s original 28 1 complaint should have been filed no later than four years from that date, which is September 29, 2 2020. 3 Plaintiff’s original complaint was signed, and thus, constructively filed on April 29, 4 2022.2 See ECF No. 1 at 7 (signature date of complaint).

This was a full one year and seven 5 months past September 29, 2020, the last day that Plaintiff was able to file a complaint in this 6 Court. For this reason, this case should be summarily dismissed. 7 B. Plaintiff Has Failed to Exhaust Administrative Remedies Without Excuse 8 Plaintiff’s FAC must also be dismissed because in it, he has failed to provide a viable and 9 plausible excuse under Ross for not having exhausted his administrative remedies in the Madera 10 County Jail prior to filing his original complaint in this Court.

See generally ECF No. 20. 11 Plaintiff’s contradictory statements that there is an administrative remedy process at the jail, but 12 that he did not use the process because “remedies for complaint are unavailable at institution, 13 facility or prison,” (see id. at 2), without more, does not, consistent with Ross, sufficiently excuse 14 the fact that he has not exhausted his administrative remedies.

For this reason as well, Plaintiff’s 15 complaint must be summarily dismissed. 16 V. CONCLUSION 17 In sum, because: (1) Plaintiff’s complaint was filed well beyond the four-year statute of 18 limitations period, and (2) it is clear on the face of the FAC that Plaintiff did not exhaust his 19 administrative remedies, and that he has provided no viable excuse under Ross for not having 20 done so, the Court must recommend that this matter be summarily dismissed.

Prior to doing so, 21 however, Plaintiff will be ordered to show cause why it should not be. As an alternative to filing 22 the showing of cause, Plaintiff may voluntarily dismiss this matter pursuant to Federal Rule of 23 Civil Procedure 41(a)(1)(A)(i). Plaintiff will be given fourteen days to take either course of 24 action. 25 2 The signing date of a pleading is the earliest possible filing date pursuant to the mailbox rule.

26 See *Roberts v. Marshall*, 627 F.3d 768, 769 n.1 (9th Cir. 2010) (stating constructive filing date for 27 prisoner giving pleading to prison authorities is date pleading is signed); *Jenkins v. Johnson*, 330 F.3d 1146, 1149 n.2 (9th Cir. 2003), overruled on other grounds by *Pace v. DiGuglielmo*, 544 28 U.S. 408 (2005). 1 Accordingly, IT IS HEREBY ORDERED that within fourteen days from the date of this 2 order, Plaintiff shall SHOW CAUSE why this matter should not be SUMMARILY DISMISSED 3 as untimely in violation of the Statute of Limitations and for failure to exhaust administrative 4 remedies.

5 Plaintiff is cautioned that failure to timely respond to this order within the time 6 allotted may result in a recommendation that this matter be dismissed. 7 Plaintiff is further cautioned that absent exigent circumstances, no requests for 8 extensions of time to respond to this order will be granted. 9 10 IT IS SO ORDERED. 11 12 Dated: July 29, 2025 /s/ Gary S. Austin UNITED STATES MAGISTRATE JUDGE 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28