

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Edward Androshchuk v. Polayo, et al.

Androshchuk v. Polayo · No. 2:24-cv-01914-EFB (PC) · Decided October 29, 2025

SUMMARY

The United States District Court for the Eastern District of California screened a state prisoner’s 42 U.S.C. § 1983 complaint alleging failure to protect and retaliation. The court found a potentially cognizable First Amendment retaliation claim against defendant Mendoza, dismissed the remaining claims with leave to amend, and permitted the plaintiff to proceed only against Mendoza or file an amended complaint.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Edmund F. Brennan
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	October 29, 2025
DOCKET	2:24-cv-01914-EFB (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Screening of a state prisoner's pro se complaint under 28 U.S.C. §§ 1915A and 1915(e)(2) in a 42 U.S.C. § 1983 action.
STANDARD OF REVIEW	The court screened the complaint under 28 U.S.C. §§ 1915A and 1915(e)(2), accepting well-pleaded allegations as true and construing them in the light most favorable to plaintiff, while applying the Rule 8(a) and plausibility standards under Twombly and Iqbal.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Edward Androshchuk v. Polayo, Ortiz, Merced, Mendoza, John Doe 1

TOPICS

- section 1983
- prisoners rights
- first amendment
- pleadings
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the complaint stated an Eighth Amendment failure-to-protect claim against the correctional officers and sergeants.
2. Whether the complaint stated a First Amendment retaliation claim based on Sergeant Mendoza's alleged threat to withhold assistance because plaintiff had filed grievances and complaints.
3. Whether the complaint stated a separate First Amendment retaliation claim based on plaintiff's report of an attacker's comment and his subsequent five-hour stay in a holding cage.
4. Whether plaintiff should be granted leave to amend the dismissed claims.

HOLDINGS

1. The complaint failed to state an Eighth Amendment failure-to-protect claim. The allegations did not plausibly show that Polayo, Ortiz, or Merced acted with deliberate indifference, and they did not adequately allege a sufficiently serious risk, a defendant's deliberate indifference, or more-than-de-minimis injury attributable to the housing assignment against Mendoza or the Doe sergeant.
2. The complaint plausibly stated a First Amendment retaliation claim against Mendoza.
3. The complaint failed to state the second retaliation claim because it did not allege that a named defendant took the adverse action because of protected conduct, and the reported statement was not alleged to be a grievance or litigation-related communication.
4. All claims other than the cognizable First Amendment retaliation claim against Mendoza were dismissed with leave to amend within 30 days.

KEY QUOTATIONS

“The complaint fails to allege any failure to protect claim against correctional officers Polayo, Ortiz, or Merced because each of them is alleged to have summoned their respective sergeants (Mendoza and Doe) to address plaintiff’s safety concerns.” (at 6)

“The complaint thus plausibly states a claim against Mendoza for retaliation.” (at 8)

“All other claims are dismissed with leave to amend within 30 days of service of this order.” (at 10)

FACTUAL BACKGROUND

Plaintiff, a state prisoner, alleged that upon arrival at Kern Valley State Prison he warned correctional officers and sergeants that placement in a particular housing facility exposed him to danger based on a prior incarceration and security concerns. He was placed in that facility and later attacked by several inmates, but the complaint did not describe the attack or resulting physical injuries with sufficient specificity. Plaintiff also alleged that he spent five hours in a holding cage and experienced overheating, dehydration, nausea, vomiting, headaches, blurred vision, and lightheadedness, without alleging that any named defendant caused or controlled that confinement. Sergeant Mendoza allegedly told plaintiff that because he had filed grievances and complaints against staff, he

should not expect their assistance; the court found that allegation sufficient to state a First Amendment retaliation claim.

PROCEDURAL HISTORY

Plaintiff filed a § 1983 complaint alleging that correctional officers and sergeants failed to protect him from an inmate attack and retaliated against him. The court screened the complaint and found a potentially cognizable First Amendment retaliation claim against Sergeant Mendoza, while dismissing all other claims with leave to amend within 30 days. Plaintiff was given the option either to proceed only on the retaliation claim against Mendoza or to file an amended complaint before service.

DISPOSITION

other

CASES CITED

- *Neitzke v. Williams*, 490 U.S. 319, 325, 327-28 (1989)
- *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 554, 555-57, 570 (2007)
- *Conley v. Gibson*, 355 U.S. 41, 78 S. Ct. 99, 2 L. Ed. 2d 80 (1957)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 678-79 (2009)
- *Erickson v. Pardus*, 551 U.S. 89 (2007)
- *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974)
- *Johnson v. Ryan*, 55 F.4th 1167, 1172 (9th Cir. 2022)
- *Williams v. Paramo*, 775 F.3d 1182, 1190 (9th Cir. 2015)
- *Helling v. McKinney*, 509 U.S. 25, 31 (1993)
- *Farmer v. Brennan*, 511 U.S. 825, 832, 834-35, 842, 847 (1994)
- *Wilson v. Seiter*, 501 U.S. 294, 298 (1991)
- *Frost v. Agnos*, 152 F.3d 1124 (9th Cir. 1998)
- *Johnson v. Lewis*, 217 F.3d 726, 731 (9th Cir. 2000)
- *Whitley v. Albers*, 475 U.S. 312, 319 (1986)
- *Labatad v. Corr. Corp. of Am.*, 714 F.3d 1155, 1160 (9th Cir. 2013)
- *Hernandez v. Denton*, 861 F.2d 1421, 1424 (9th Cir. 1988), vacated on other grounds sub nom. *Denton v. Hernandez*, 112 S. Ct. 1728 (1992)
- *Rhodes v. Robinson*, 408 F.3d 559, 567-69 (9th Cir. 2005)
- *Brodheim v. Cry*, 584 F.3d 1262, 1271 n.4 (9th Cir. 2009)
- *West v. Livesay*, 2:19-cv-7190-VBF-KES, 2022 WL 17185985, at *4 (C.D. Cal. Aug. 10, 2022)
- *Bobadilla v. Knight*, 2:18-cv-1778-JAM-KJN, 2020 WL 4059183, at *7 (E.D. Cal. July 20, 2020)
- *Olin v. Wakinekona*, 461 U.S. 238, 245 (1983)
- *Meachum v. Fano*, 427 U.S. 215, 225-27 (1976)

- Oliver v. Perez-Pantoja, No. 5:19-cv-7957 EJD, 2023 WL 12033407, at *5 (N.D. Cal. Mar. 24, 2023)
- Vignolo v. Miller, 120 F.3d 1075, 1078 (9th Cir. 1997)
- Shepard v. Quillen, 840 F.3d 686, 691 (9th Cir. 2016)
- Rizzo v. Dawson, 778 F.2d 527, 531 (9th Cir. 1985)
- Gillespie v. Civiletti, 629 F.2d 637, 642 (9th Cir. 1980)
- Brass v. County of Los Angeles, 328 F.3d 1192, 1197-98 (9th Cir. 2003)
- Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978)
- Forsyth v. Humana, 114 F.3d 1467, 1474 (9th Cir. 1997)
- Loux v. Rhay, 375 F.2d 55, 57 (9th Cir. 1967)

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