

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Hearne v. Farhat

Hearne · No. 2:20-cv-00557-DAD-DB (PC) · Decided March 13, 2023

SUMMARY

The United States District Court for the Eastern District of California adopted the magistrate judge's findings and recommendations and granted defendants' motion for summary judgment. The court held that plaintiff failed to exhaust available administrative remedies before filing his 42 U.S.C. § 1983 action because he did not appeal the cancellation of his grievance. The action was dismissed without prejudice, and the clerk was directed to close the case.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Dale A. Drozd
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 13, 2023
DOCKET	2:20-cv-00557-DAD-DB (PC)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff objected to a magistrate judge's findings and recommendations recommending grant of defendants' motion for summary judgment for failure to exhaust administrative remedies. The district court conducted de novo review, adopted the findings and recommendations, granted summary judgment, and dismissed the action without prejudice.
STANDARD OF REVIEW	De novo review of the magistrate judge's findings and recommendations under 28 U.S.C. § 636(b)(1)(C).
PRECEDENTIAL VALUE	unpublished, nonprecedential district court order
PARTIES	John Andrew Hearne v. Farhat, et al.

TOPICS

summary judgment

prisoners rights

section 1983

civil rights

civil procedure

PRACTICE AREAS

prisoner civil rights

federal civil procedure

administrative exhaustion

QUESTIONS PRESENTED

1. Whether Hearne exhausted his available administrative remedies before filing his § 1983 action when prison officials cancelled his grievance as untimely and he did not separately appeal the cancellation.
2. Whether defendants were entitled to summary judgment based on Hearne's failure to exhaust administrative remedies.

HOLDINGS

1. Hearne did not exhaust his administrative remedies because he could have filed a separate appeal challenging the cancellation of his grievance but failed to do so.
2. Defendants were entitled to summary judgment because Hearne failed to exhaust his administrative remedies before filing suit.

KEY QUOTATIONS

“This case is dismissed without prejudice;” (at 2)

FACTUAL BACKGROUND

Hearne filed inmate appeal Log No. CHCF-C-19-04940 after the thirty-day period for filing a grievance had expired. Prison officials screened and cancelled the appeal as untimely, and Hearne argued that the deadline should have been extended because he had been briefly hospitalized. He did not file a separate appeal challenging the cancellation decision, although the record showed that he had filed at least one unrelated inmate appeal during the same thirty-day period.

PROCEDURAL HISTORY

Hearne brought a 42 U.S.C. § 1983 civil rights action while incarcerated. The assigned magistrate judge recommended granting defendants' summary-judgment motion because Hearne failed to exhaust available administrative remedies before filing suit. Hearne filed objections, but the district court found no basis to reject the recommendation, adopted it in full, granted summary judgment, dismissed the case without prejudice, and directed the clerk to close the case.

DISPOSITION

dismissed

CASES CITED

- Ranson v. Aquirre, No. 1:12-cv-1343-AWI-DLB, 2013 WL 5923104, at *7 (E.D. Cal. Nov. 1, 2013)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 JOHN ANDREW HEARNE, No. 2:20-cv-00557-DAD-DB (PC) 12 Plaintiff,
13 v. ORDER ADOPTING FINDINGS AND RECOMMENDATIONS AND GRANTING 14
FARHAT, et al., DEFENDANTS' MOTION FOR SUMMARY JUDGMENT 15 Defendants.
(Doc. Nos. 80, 100) 16 17 Plaintiff John Andrew Hearne is a state prisoner proceeding pro se in
this civil rights 18 action brought under 42 U.S.C. § 1983.

The matter was referred to a United States Magistrate 19 Judge pursuant to 28 U.S.C. § 636(b)(1)
(B) and Local Rule 302. 20 On January 23, 2023, the assigned magistrate judge issued findings
and recommendations 21 recommending that defendants' motion for summary judgment (Doc. No.
80) be granted due to 22 plaintiff's failure to exhaust his administrative remedies prior to filing
suit as is required.

(Doc. 23 No. 100.) The findings and recommendations were served on the parties and contained
notice 24 that any objections thereto were to be filed within twenty (20) days after service. (Id. at
16.) On 25 February 13, 2023, plaintiff filed objections to the pending findings and
recommendations. (Doc. 26 No. 102.) Defendants did not file a response thereto or objections of
their own.

27 In his objections, plaintiff largely reiterates arguments raised in his opposition to 28
defendants' motion for summary judgment and addressed by the pending findings and 1
recommendations. (Doc. No. 102.) Specifically, plaintiff acknowledges that he filed his inmate 2
appeal, Log No. CHCF-C-19-04940, after the thirty-day time period in which to file a grievance 3
had expired, but he argues that prison officials improperly screened and cancelled that appeal as 4
untimely.

(Id. at 6–7.) According to plaintiff, the prison officials should have extended that 5 deadline
because he was briefly hospitalized during part of that thirty-day period. (Id.) However, 6 as the
magistrate judge explained in the pending findings and recommendations, plaintiff did not 7
exhaust his administrative remedies because he could have filed a separate appeal seeking review
8 of the prison officials' cancellation decision, but he did not do so.

(See Doc. No. 100 at 15) 9 (citing *Ranson v. Aquirre*, No. 1:12-cv-1343-AWI-DLB, 2013 WL
5923104, at *7 (E.D. Cal. 10 Nov. 1, 2013) (a cancelled grievance does not exhaust administrative
remedies because a separate 11 appeal could have been filed on the cancellation decision)).

In addition, the magistrate judge 12 noted that the evidence before the court on summary judgment
reflected that plaintiff had filed at 13 least one (unrelated) inmate appeal during that same thirty-
day period, despite his brief 14 hospitalization. (Doc. No. 100 at 15.)

Thus, plaintiff's objections provide no basis upon which to 15 reject the pending findings and
recommendations. 16 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court

has conducted a 17 de novo review of the case.

Having carefully reviewed the entire file, including plaintiff's 18 objections, the court concludes that the findings and recommendations are supported by the 19 record and by proper analysis. 20 Accordingly, 21 1. The findings and recommendations issued on January 23, 2023 (Doc. No. 100) are 22 adopted in full; 23 2. Defendants' motion for summary judgment based upon plaintiff's failure to 24 exhaust his administrative remedies, with respect to the claims presented in this 25 action, prior to filing suit as required (Doc.

No. 80) is granted; 26 ///// 27 ///// 28 ///// 1 3. This case is dismissed without prejudice; and 2 4. The Clerk of the Court is directed to close this case. 3 IT IS SO ORDERED. * | Dated: _March 10, 2023 Dab A. 2, eel 5 UNITED STATES DISTRICTY JUDGE 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28