

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Lanier v. Doerer

Lanier · No. 1:24-cv-01178 GSA (PC) · Decided June 11, 2025

SUMMARY

The United States District Court for the Eastern District of California recommends summary dismissal of Kareem Lanier’s Bivens action for failure to exhaust administrative remedies under the Prison Litigation Reform Act. The magistrate judge concludes that Plaintiff admitted he had not exhausted his remedies, failed to establish an applicable exception under *Ross v. Blake*, and did not respond to the order to show cause.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 KAREEM LANIER, No. 1:24-cv-01178 GSA (PC) 12 Plaintiff, ORDER
AND FINDINGS AND RECOMMENDATIONS 13 v. ORDER RECOMMENDING THAT THIS
14 J. DOERER, et al., MATTER BE SUMMARILY DISMISSED FOR FAILURE TO EXHAUST
15 Defendants. ADMINISTRATIVE REMEDIES PRIOR TO FILING COMPLAINT IN THIS
COURT 16 See 42 U.S.C. § 1997e(a) 17 PLAINTIFF’S OBJECTIONS TO FINDINGS 18 AND
RECOMMENDATIONS DUE IN FOURTEEN DAYS 19 20 Plaintiff, a federal inmate
proceeding pro se and in forma pauperis, has filed this civil 21 rights action seeking relief under
Bivens v. Six Unknown Named Agents of Federal Bureau of 22 *Narcotics*, 403 U.S. 388 (1971)
(federal prisoner).

The matter was referred to a United States 23 Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)
(B) and Local Rule 302. 24 For the reasons stated below, the undersigned will recommend that
this matter be 25 summarily dismissed for failure to exhaust administrative remedies prior to filing
suit in this 26 Court. Plaintiff will be given fourteen days to file objections to this order.

27 28 1 I. RELEVANT FACTS 2 A. Order Severing Plaintiff’s Case 3 On September 18, 2024,
Plaintiff’s complaint was docketed. ECF No. 1. The pleading, 4 signed by Plaintiff Michael
Benanti and labeled “Class Action Lawsuit Complaint”, was 5 originally assigned to United States
Magistrate Judge Christopher D. Baker and it listed several 6 other inmates, including Plaintiff, as
plaintiffs.

Id. at 1. 7 On October 3, 2024, the matter was ordered severed by United States Magistrate Judge
8 Baker. In the order it directed the Clerk of the Court to open a separate civil action for Plaintiff 9
and directed the Clerk to send Plaintiff an application to proceed IFP.

In addition, Plaintiff was directed to file a signed complaint within 45 days of the service of the order and either pay the filing fee or complete and submit an application to proceed IFP. See ECF No. 2. Based on that order, Plaintiff's matter was referred to the undersigned. On November 18, 2024, Plaintiff filed his separate complaint along with an application to proceed in forma pauperis.

ECF Nos. 4 & 5. Finally, on February 3, 2025, Plaintiff filed his six month inmate trust fund account, and on February 4, 2025, Plaintiff's motion to proceed IFP was granted. ECF Nos. 12 & 13. Thereafter, on April 2, 2025, Plaintiff filed a 1AC. ECF No. 20. B. Order Directing Plaintiff to Show Cause A review of Plaintiff's FAC indicated that Plaintiff had not exhausted his administrative remedies prior to filing his complaint with this Court.

See ECF No. 20 at 4-6, 8, 10 (Plaintiff stating he did not exhaust his claims). Additionally, neither it, nor Plaintiff's unsolicited "motion to show cause" has provided sufficient reason under *Ross v. Blake*, 578 U.S. 632 (2016) to excuse his failure to exhaust. See generally ECF Nos. 19, 20 ("motion to show cause" and FAC, respectively).

As a result, on April 14, 2025, after acknowledging Plaintiff's unsolicited "motion to show cause," the Court formally ordered Plaintiff to show cause why this matter should not be summarily dismissed for failure to exhaust administrative remedies. ECF No. 21. Plaintiff was given fourteen days to file the showing of cause. *Id.* at 8. At that time, he was cautioned that failure to timely respond to the Court's order within the time allotted might result in a recommendation that this matter be dismissed.

To date, Plaintiff has not responded to the Court's order to show cause, nor has he filed a request for an extension of time to do so. Plaintiff has not responded to the Court's order in any way. II. DISCUSSION The PLRA requires that a prisoner exhaust administrative remedies before submitting any papers to the federal courts. *Vaden v. Summerhill*, 449 F.3d 1047, 1048 (9th Cir.

2006). Plaintiff clearly states in his complaint that he has not done this. See ECF No. 20 at 4-6, 8, 10. In addition, Plaintiff's reasons for not having done so – i.e., that between August 9, 2024, and October 9, 2024, he "was cut off from the world" and that "remedies were deliberately withheld" from him during that period (see ECF No. 20 at 4) are not ones that fall within any of the Ross exceptions.

See *id.* The undersigned notes again that the original "class action" complaint was docketed on September 18, 2024. See ECF No. 1 at 1 (date stamp of complaint). Oddly enough, this date was during the period that Plaintiff alleges he was "cut off from the world" in his FAC, i.e., between August 9, 2024, and October 9, 2024. See ECF No. 20 at 4.

Thus, the original “class action 16 complaint” which was filed on behalf of Plaintiff’s and other inmates’, was filed before the two- 17 month period that Plaintiff claims he was improperly confined to his cell for twenty-four hours a 18 day in violation of his constitutional rights had ended. 19 More directly related to Plaintiff himself, on March 20, 2025, the date that Plaintiff signed 20 his FAC (see ECF No. 20 at 12) (3/20/25 signature date) – which was long after Plaintiff’s 21 lockdown had ended on October 9, 2024, – Plaintiff indicates that he still had not exhausted his 22 administrative remedies.

See ECF No. 20 at 4, 5, 6 & 8. 23 Given these facts, as well as the fact that Plaintiff has not responded to the Court’s order 24 to show cause, Plaintiff’s complaint is improperly before this Court. See 42 U.S.C. § 1997e(a) 25 (stating no action can be brought by a prisoner under Section 1983 with respect to prison 26 conditions until available administrative remedies have been exhausted).

For these reasons, the 27 undersigned shall recommend that this matter be summarily dismissed for failure to exhaust 28 administrative remedies. 1 Accordingly, IT IS HEREBY ORDERED that the Clerk of Court shall randomly assign a 2 District Judge to this matter. 3 IT IS FURTHER RECOMMENDED that this matter be SUMMARILY DISMISSED 4 failure to exhaust administrative remedies prior to filing suit in this Court.

See 42 U.S.C. § 5 1997e(a). 6 These findings and recommendations are submitted to the United States District Judge 7 assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within fourteen days 8 after being served with these findings and recommendations, Plaintiff may file written objections 9 with the Court. Such a document should be captioned “Objections to Magistrate Judge’s Findings 10 and Recommendations,” and it shall not exceed fifteen pages.

11 The Court will not consider exhibits attached to the objections. To the extent that a party 12 wishes to refer to any exhibit, when possible, the party must reference the exhibit in the record by 13 its CM/ECF document and page number or reference the exhibit with specificity. Any pages filed 14 in excess of the fifteen-page limit may be disregarded by the District Judge when conducting the 15 28 U.S.C. § 636(b)(l)(C) review of the findings and recommendations.

A party’s failure to file 16 objections within the specified time may result in the waiver of certain rights on appeal. See 17 *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014); *Martinez v. Ylst*, 951 F.2d 1153 (9th 18 Cir. 1991). 19 20 IT IS SO ORDERED. 21 22 Dated: June 10, 2025 /s/ Gary S. Austin UNITED STATES MAGISTRATE JUDGE 23 24 25 26 27 28