

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

OPINION

(PC) Lanier v. Doerer

PER CURIAM.

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 10 directed to file a signed complaint within 45 days of the service of the order and either pay the 11 filing fee or complete and submit an application to proceed IFP. See ECF No. 2. Based on that 12 order, Plaintiff’s matter was referred to the undersigned. 13 On November 18, 2024, Plaintiff filed his separate complaint along with an application to 14 proceed in forma pauperis. ECF Nos. 4 & 5. Finally, on February 3, 2025, Plaintiff filed his six 15 month inmate trust fund account, and on February 4, 2025, Plaintiff ‘s motion to proceed IFP was 16 granted. ECF Nos. 12 & 13. Thereafter, on April 2, 2025, Plaintiff filed a 1AC. ECF No. 20. 17 B. Order Directing Plaintiff to Show Cause 18 A review of Plaintiff’s FAC indicated that Plaintiff had not exhausted his administrative 19 remedies prior to filing his complaint with this Court. See ECF No. 20 at at 4-6, 8, 10 (Plaintiff 20 stating he did not exhaust his claims). Additionally, neither it, nor Plaintiff’s unsolicited “motion 21 to show cause” has provided sufficient reason under *Ross v. Blake*, 578 U.S. 632 (2016) to 22 excuse his failure to exhaust. See generally ECF Nos. 19, 20 (“motion to show cause” and FAC, 23 respectively). As a result, on April 14, 2025, after acknowledging Plaintiff’s unsolicited “motion 24 to show cause,” the Court formally ordered Plaintiff to show cause why this matter should not be 25 summarily dismissed for failure to exhaust administrative remedies. ECF No. 21. Plaintiff was 26 given fourteen days to file the showing of cause. Id. at 8. At that time, he was cautioned that 27 failure to timely respond to the Court’s order within the time allotted might result in a 28 recommendation that this matter be dismissed. Id. 1 To date, Plaintiff has not responded to the Court’s order to show cause, nor has he filed a 2 request for an extension of time to do so. Plaintiff has not responded to the Court’s order in any 3 way.

4 II. DISCUSSION

5 The PLRA requires that a prisoner exhaust administrative remedies before submitting any 6 papers to the federal courts. *Vaden v. Summerhill*, 449 F.3d 1047, 1048 (9th Cir. 2006). Plaintiff 7 clearly states in his complaint that he has not done this. See ECF No. 20 at 4-6, 8, 10. In 8 addition, Plaintiff’s reasons for not having done so – i.e., that between August 9, 2024, and 9 October 9, 2024, he “was cut off from the world” and that “remedies were deliberately withheld”

10 from him during that period (see ECF No. 20 at 4) are not ones that fall within any of the *Ross* 11 exceptions. See id. 12 The undersigned notes again that the original “class action” complaint was docketed on

13 September 18, 2024. See ECF No. 1 at 1 (date stamp of complaint). Oddly enough, this date was

14 during the period that Plaintiff alleges he was “cut off from the world” in his FAC, i.e.,

between

15 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