

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Angel Luis Gallardo v. K. Gibbs, et al.

Gallardo v. Gibbs · No. 2:24-cv-2981-JDP (P) · Decided February 25, 2025

SUMMARY

The United States District Court for the Eastern District of California screened a state inmate’s 42 U.S.C. § 1983 complaint concerning the opening and handling of legal mail. The court found potentially viable First Amendment claims against Gibbs, Grijalva, and Banuro, found no viable claim against Mctaggart as pleaded, granted in forma pauperis status, and gave plaintiff thirty days to proceed on the viable claims or file an amended complaint.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jeremy D. Peterson
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	February 25, 2025
DOCKET	2:24-cv-2981-JDP (P)
DISPOSITION	other
PROCEDURAL POSTURE	Screening of a pro se state inmate's 42 U.S.C. § 1983 complaint concerning the opening and review of legal mail, together with consideration of plaintiff's application to proceed in forma pauperis.
STANDARD OF REVIEW	The court applied the pleading-plausibility standard under Federal Rule of Civil Procedure 8(a)(2), construing the pro se complaint liberally and screening whether the allegations stated a claim for relief.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Angel Luis Gallardo v. K. Gibbs, Lt. Mctaggart, Grijalva, Banuro

TOPICS

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

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the allegations that Gibbs opened plaintiff's properly marked legal mail outside plaintiff's presence stated a viable First Amendment claim.
2. Whether the allegations that Grijalva and Banuro handled and apparently reviewed plaintiff's legal mail stated viable First Amendment claims.
3. Whether the allegation that Mctaggart failed to correct or remedy the conduct after being informed stated a First Amendment claim.
4. Whether plaintiff should be granted leave to proceed in forma pauperis and be allowed to proceed on the viable claims or amend the complaint.

HOLDINGS

1. The complaint potentially stated viable First Amendment claims against Gibbs, Grijalva, and Banuro based on allegations that plaintiff's legal mail was opened or reviewed outside his presence.
2. The complaint did not state a viable First Amendment claim against Mctaggart because it alleged only that he failed to correct his staff after being informed of the incident and did not allege that he was present when the mail was opened or reviewed.
3. Plaintiff's application to proceed in forma pauperis was granted.

KEY QUOTATIONS

“prisoners have “a protected First Amendment interest in having properly marked legal mail opened only in their presence”” (at 2)

“If plaintiff does not file an amended complaint, I will recommend that this action be dismissed.” (at 2)

FACTUAL BACKGROUND

Plaintiff alleged that mailroom supervisor K. Gibbs opened his legal mail outside his presence on March 28, 2024, allegedly to be nosy and humiliate him. He further alleged that correctional officers Grijalva and Banuro removed the legal mail from the regular mail bag while distributing mail, referenced his sexual-assault case, and appeared to have reviewed its contents. Plaintiff alleged that Lieutenant Mctaggart was informed of the incident but did not correct his staff or otherwise remedy it.

PROCEDURAL HISTORY

Plaintiff filed a § 1983 complaint against four correctional defendants and applied to proceed in forma pauperis. On screening, the court found potentially viable First Amendment claims against Gibbs, Grijalva, and Banuro, but found the allegations insufficient against Mctaggart. The court granted in forma pauperis status and gave plaintiff thirty days either to proceed only against the three defendants with viable claims or to file an amended complaint addressing the deficiencies.

DISPOSITION

other

CASES CITED

- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678-679 (2009)
- Kobold v. Good Samaritan Reg'l Med. Ctr., 832 F.3d 1024, 1038 (9th Cir. 2016)
- Nagrampa v. MailCoups, Inc., 469 F.3d 1257, 1264 n.2 (9th Cir. 2006) (en banc)
- Haines v. Kerner, 404 U.S. 519, 520 (1972) (per curiam)
- Hayes v. Idaho Corr. Ctr., 849 F.3d 1204, 1208, 1211 (9th Cir. 2017)
- Bruns v. Nat'l Credit Union Admin., 122 F.3d 1251, 1257 (9th Cir. 1997)
- Ivey v. Bd. of Regents, 673 F.2d 266, 268 (9th Cir. 1982)
- Lacey v. Maricopa Cnty., 693 F.3d 896, 907 n.1 (9th Cir. 2012) (en banc)