

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Silva v. Jackson

Silva v. Jackson · No. 1:25-cv-00458-EPG (PC) · Decided June 9, 2025

SUMMARY

The United States District Court for the Eastern District of California ordered state prisoner Yolanda Silva to show cause why her civil rights action against Nancy Jackson should not be dismissed without prejudice for failure to exhaust administrative remedies under the Prison Litigation Reform Act. The court stated that the complaint appeared to show that Silva had not completed the applicable grievance process before filing suit. Silva was given thirty days to respond or alternatively file a notice of voluntary dismissal.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	June 9, 2025
DOCKET	1:25-cv-00458-EPG (PC)
DISPOSITION	other
PROCEDURAL POSTURE	The court issued an order to show cause why a pro se prisoner's § 1983 action should not be dismissed without prejudice for failure to exhaust available administrative remedies before filing suit.
STANDARD OF REVIEW	The court applied the PLRA exhaustion requirement and the rule that dismissal is proper when failure to exhaust is clear from the face of the complaint.
PRECEDENTIAL VALUE	Unpublished federal district court order; limited persuasive value.

TOPICS

- prisoners rights
- civil rights
- section 1983
- civil procedure

PRACTICE AREAS

- civil procedure
- civil rights
- prisoner litigation
- administrative exhaustion

QUESTIONS PRESENTED

1. Whether the complaint appeared to show that Silva failed to exhaust available administrative remedies before filing the prisoner civil-rights action.
2. Whether the appropriate potential disposition for a complaint that clearly shows nonexhaustion is dismissal without prejudice.

HOLDINGS

1. A prisoner must exhaust available administrative remedies before bringing an action concerning prison conditions under 42 U.S.C. § 1983 or another federal law.
2. The PLRA does not bar suit when the administrative remedies are unavailable, including when the process operates as a dead end, is practically incapable of use because it is too opaque, or is thwarted by officials through machination, misrepresentation, or intimidation.
3. When failure to exhaust administrative remedies is clear from the face of the complaint, dismissal of the barred claims is proper and should be without prejudice.

KEY QUOTATIONS

“ “[n]o action shall be brought with respect to prison conditions under [42 U.S.C. § 1983], or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.” ” (at 2)

“ [A]n administrative procedure is unavailable when (despite what regulations or guidance materials may promise) it operates as a simple dead end—with officers unable or consistently unwilling to provide any relief to aggrieved inmates.” (at 2–3)

FACTUAL BACKGROUND

Silva is a state prisoner who filed a civil-rights action concerning an attack by another inmate. Her complaint indicated that she had not completed the applicable administrative grievance procedure before filing suit and had not yet filed an appeal or grievance concerning the alleged attack.

PROCEDURAL HISTORY

Yolanda Silva, a state prisoner proceeding pro se, filed the operative civil-rights complaint on April 21, 2025, alleging that another inmate attacked her. The face of the complaint indicated that Silva had not completed, and apparently had not yet initiated or appealed, the applicable grievance process. Rather than immediately dismissing the action, the court ordered Silva to show cause within thirty days or voluntarily dismiss the action without prejudice.

DISPOSITION

other

CASES CITED

- Jones v. Bock, 549 U.S. 199, 211 (2007)

- McKinney v. Carey, 311 F.3d 1198, 1199–1201 (9th Cir. 2002) (per curiam)
- Porter v. Nussle, 534 U.S. 516, 532 (2002)
- Booth v. Churner, 532 U.S. 731, 736, 741 (2001)
- Ross v. Blake, 578 U.S. 632, 639, 643–44 (2016)
- Reyes, 810 F.3d at 659
- Lira v. Herrera, 427 F.3d 1164, 1175–76 (9th Cir. 2005)
- Albino v. Baca, 747 F.3d 1162, 1166 (9th Cir. 2014)

OPINION

(PC) Silva v. Jackson

PER CURIAM.

1 2 3 4 5 6

7 UNITED STATES DISTRICT COURT

8 EASTERN DISTRICT OF CALIFORNIA

9 10 YOLANDA SILVA, Case No. 1:25-cv-00458-EPG (PC) 11 Plaintiff,

ORDER FOR PLAINTIFF TO SHOW

12 v.

CAUSE WHY THIS ACTION SHOULD

13 NANCY JACKSON, NOT BE DISMISSED WITHOUT

PREJUDICE FOR FAILURE TO EXHAUST

14 Defendant. ADMINISTRATIVE REMEDIES BEFORE

FILING THIS LAWSUIT

15

16 RESPONSE DUE IN THIRTY DAYS

17 Plaintiff Yolanda Silva is a state prisoner proceeding pro se in this civil rights action. 18
 Plaintiff filed the operative complaint on April 21, 2025. (ECF No. 1). Plaintiff claims that 19
 another inmate attacked her. (Id. at 3). 20 It appears from the face of the Complaint that Plaintiff
 did not exhaust her 21 administrative remedies before filing this action. (Id. at 2). Accordingly, the
 Court will order 22 Plaintiff to file a response within thirty days, explaining why this action should
 not be 23 dismissed for failure to exhaust available administrative remedies. Such a dismissal
 would be 24 without prejudice, so that Plaintiff may refile the action after exhausting
 administrative 25 remedies, to the extent those remedies are still available to her. In the alternative,
 Plaintiff may 26 file a notice of voluntary dismissal, in which case the Court will dismiss
 Plaintiff’s case without 27 prejudice to Plaintiff refiling the complaint after exhausting
 administrative remedies. 28

I. LEGAL STANDARDS

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2 Section 1997e(a) of the Prison Litigation Reform Act of 1995 (“PLRA”) provides that

3 “[n]o action shall be brought with respect to prison conditions under [42 U.S.C. § 1983], or any
4 other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until 5
such administrative remedies as are available are exhausted.” 42 U.S.C. § 1997e(a). 6 Prisoners
are required to exhaust the available administrative remedies prior to filing 7 suit. *Jones v. Bock*,
549 U.S. 199, 211 (2007); *McKinney v. Carey*, 311 F.3d 1198, 1199–1201 8 (9th Cir. 2002) (per
curiam). The exhaustion requirement applies to all prisoner suits relating to 9 prison life. *Porter v.*
Nussle, 534 U.S. 516, 532 (2002). Exhaustion is required regardless of the 10 relief sought by the
prisoner and regardless of the relief offered by the process, unless “the 11 relevant administrative
procedure lacks authority to provide any relief or to take any action 12 whatsoever in response to a
complaint.” *Booth v. Churner*, 532 U.S. 731, 736, 741 (2001); *Ross v. Blake*, 578 U.S. 632, 643
(2016). Under the PLRA, a grievance suffices if it alerts the prison to the nature of the 14 wrong
for which redress is sought. The grievance need not include legal terminology or legal theories,
because [t]he primary purpose of a grievance is to 15 alert the prison to a problem and facilitate its
resolution, not to lay groundwork 16 for litigation. The grievance process is only required to alert
prison officials to a problem, not to provide personal notice to a particular official that he may be
17 sued. 18 *Reyes*, 810 F.3d at 659 (alteration in original) (citations and internal quotation marks
19 omitted). 20 As discussed in *Ross*, 578 U.S. at 639, there are no “special circumstances”
exceptions 21 to the exhaustion requirement. The one significant qualifier is that “the remedies
must indeed 22 be ‘available’ to the prisoner.” *Id.* The *Ross* Court described this qualification as
follows: 23 [A]n administrative procedure is unavailable when (despite what regulations or
guidance materials may promise) it operates as a simple 24 dead end—with officers unable or
consistently unwilling to provide 25 any relief to aggrieved inmates. See 532 U.S., at 736, 738,
121 S.Ct. 26 1819. . . . 27 Next, an administrative scheme might be so opaque that it becomes,
practically speaking, incapable of use. . . . 28 And finally, the same is true when prison
administrators thwart 1 inmates from taking advantage of a grievance process through 2
machination, misrepresentation, or intimidation. . . . As all those courts 3 have recognized, such
interference with an inmate’s pursuit of relief renders the administrative process unavailable. And
then, once again, 4 § 1997e(a) poses no bar.

5 *Id.* at 643–44.

6 If the Court concludes that Plaintiff has failed to exhaust, the proper remedy is dismissal 7
without prejudice of the portions of the complaint barred by section 1997e(a). *Jones*, 549 U.S. 8 at
223–24; *Lira v. Herrera*, 427 F.3d 1164, 1175–76 (9th Cir. 2005). 9 When it is clear on the face of
the complaint that a plaintiff failed to exhaust 10 administrative remedies, dismissal is proper.
Albino v. Baca, 747 F.3d 1162, 1166 (9th Cir. 11 2014). 12

II. ANALYSIS

13 It appears from the face of the complaint that Plaintiff did not exhaust her available 14
administrative remedies before filing this action. Plaintiff’s complaint indicates that the 15
grievance procedure was not completed at the time she filed her complaint because she had not 16

yet filed an appeal or grievance concerning the facts contained in the complaint. (ECF No. 1 at 17 2). 18 Accordingly, the Court will order Plaintiff to show cause why this action should not be 19 dismissed for failure to exhaust available administrative remedies before filing this lawsuit. The 20 Court notes that this dismissal would be without prejudice. Therefore, if Plaintiff exhausts her 21 administrative remedies in the future, she could refile the complaint. 22 23 In response to this order, the Court also welcomes Plaintiff to file any documents she 24 believes demonstrates that she has exhausted all available administrative remedies.

25 III. CONCLUSION AND ORDER TO SHOW CAUSE

26 Accordingly, IT IS ORDERED that, 27 1. Within thirty (30) days from the date of service of this order, Plaintiff shall show 28 cause why this action should not be dismissed, without prejudice, for failure to 1 exhaust available administrative remedies. 2 2. Alternatively, Plaintiff may file a notice of voluntary dismissal, in which case the 3 Court will dismiss the case without prejudice such that Plaintiff may refile the case 4 after exhausting administrative remedies. 5 3. A failure to comply with this order may result in the dismissal of Plaintiffs case. 6 7 IS SO ORDERED. Dated: _ June 9, 2025 |sJe— heey

? UNITED STATES MAGISTRATE JUDGE

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