

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

OPINION

(PC) Silva v. Jackson

PER CURIAM.

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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

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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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