

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Jarvon D. Green v. Gomez, et al.

Green v. Gomez · No. 2:22-cv-0719 CKD P · Decided March 7, 2023

SUMMARY

The United States District Court for the Eastern District of California dismissed Jarvon D. Green’s amended § 1983 complaint for failure to state a claim. The court discussed potential claims involving failure to protect, retaliation, prison disciplinary proceedings, and parole denial, and explained the applicable pleading and habeas requirements. The court granted plaintiff thirty days to file a second amended complaint.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Carolyn K. Delaney
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 7, 2023
DOCKET	2:22-cv-0719 CKD P
DISPOSITION	other
PROCEDURAL POSTURE	A state prisoner proceeding pro se filed an amended complaint under 42 U.S.C. § 1983 after his original complaint was dismissed with leave to amend. The court screened the amended complaint, dismissed it for failure to state a claim, and granted leave to file a second amended complaint.
STANDARD OF REVIEW	Mandatory screening under 28 U.S.C. § 1915A; dismissal is required when a prisoner complaint is frivolous, malicious, fails to state a claim, or seeks monetary relief from an immune defendant.
PRECEDENTIAL VALUE	Unknown; unpublished district court order
PARTIES	Jarvon D. Green v. Gomez, et al.

TOPICS

- section 1983
- prisoners rights
- due process
- federal habeas corpus
- pleadings

PRACTICE AREAS

Prisoner civil rights

Federal habeas corpus

Pleading and complaint screening

QUESTIONS PRESENTED

1. Whether the amended prisoner complaint stated any claim warranting relief under 42 U.S.C. § 1983.
2. What allegations are required to state an Eighth Amendment failure-to-protect claim based on an assault by another inmate.
3. What allegations are required to state a First Amendment retaliation claim based on use of the inmate grievance procedure.
4. Whether challenges to disciplinary proceedings affecting good-conduct sentence credit must be brought through habeas corpus rather than § 1983, and what is required for a due-process claim when no sentence credit was revoked.
5. Whether a challenge seeking earlier or immediate release from custody, or damages implying the invalidity of a conviction or sentence, may proceed under § 1983.
6. Whether plaintiff's amended complaint complied with the requirement that an amended pleading be complete in itself.

HOLDINGS

1. The amended complaint failed to state a claim because it was partly illegible and largely vague and conclusory, and it did not identify specific actions by particular defendants connected to a discernable injury.
2. To state a failure-to-protect claim based on an assault by another inmate, a prisoner must allege an objectively sufficiently serious injury or risk and that the prison official was deliberately indifferent to the risk of harm.
3. A retaliation claim requires facts indicating a causal connection between the adverse action and the plaintiff's protected conduct; merely alleging use of the grievance process followed by an adverse event is insufficient.
4. A challenge to prison disciplinary proceedings that resulted in revocation of good-conduct sentence credit must be brought in a habeas corpus petition rather than under § 1983 unless the revoked credit has been restored.
5. To state a due-process claim concerning disciplinary proceedings that did not result in revocation of good-conduct sentence credit, a prisoner must allege facts showing deprivation of a protected liberty interest.
6. When a state prisoner challenges the legality of custody and seeks a determination of entitlement to earlier or immediate release, the sole federal remedy is habeas corpus under 28 U.S.C. § 2254.
7. A second amended complaint must be complete in itself and may not incorporate or refer to a prior pleading.

KEY QUOTATIONS

“There can be no liability under 42 U.S.C. § 1983 unless there is some affirmative link or connection between a defendant’s actions and the claimed deprivation.” (at 2)

“A prison official may be held liable for an assault suffered by one inmate at the hands of another only when the assaulted inmate can show that the injury is sufficiently serious, and that the prison official was deliberately indifferent to the risk of harm.” (at 2)

“When a state prisoner challenges the legality of his custody, and the relief he seeks is the determination of his entitlement to an earlier or immediate release, his sole federal remedy is a writ of habeas corpus which plaintiff would seek under 28 U.S.C. § 2254.” (at 2)

FACTUAL BACKGROUND

Plaintiff, a state prisoner, alleged that defendants were responsible for his assault by other inmates, retaliated against him for using the inmate grievance procedure, and improperly found him guilty in prison disciplinary proceedings. He also appeared to challenge the denial of parole. The court found the amended complaint largely illegible, vague, and conclusory, and held that it did not identify specific actions by particular defendants causing a discernable injury.

PROCEDURAL HISTORY

Plaintiff filed a prisoner civil-rights action. On August 19, 2022, the court dismissed the original complaint with leave to amend. After reviewing plaintiff’s amended complaint under the prisoner-screening statute, the court found that it failed to state a claim and dismissed it with thirty days’ leave to file a second amended complaint.

DISPOSITION

other

CASES CITED

- Rizzo v. Goode, 423 U.S. 362 (1976)
- Farmer v. Brennan, 511 U.S. 825 (1994)
- Watison v. Carter, 668 F.3d 1108, 1114 (9th Cir. 2012)
- Edwards v. Balisok, 520 U.S. 641, 646-47 (1997)
- Sandin v. Connor, 515 U.S. 472, 484 (1995)
- Preiser v. Rodriguez, 411 U.S. 475, 500 (1973)
- Heck v. Humphrey, 512 U.S. 477, 487 (1994)

OPINION

(PC) Green v. Gomez

PER CURIAM.

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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 JARVON D. GREEN, No. 2:22-cv-0719 CKD P

12 Plaintiff, 13 v. ORDER 14 GOMEZ, et al., 15 Defendants. 16 17 Plaintiff is a state prisoner
proceeding pro se and seeking relief pursuant to 42 U.S.C. § 18 1983. On August 19, 2022,
plaintiff's complaint was dismissed with leave to file an amended 19 complaint. Plaintiff has now
filed an amended complaint. 20 The court is required to screen complaints brought by prisoners
seeking relief against a 21 governmental entity or officer or employee of a governmental entity. 28
U.S.C. § 1915A(a). The 22 court must dismiss a complaint or portion thereof if the prisoner has
raised claims that are legally 23 "frivolous or malicious," that fail to state a claim upon which
relief may be granted, or that seek 24 monetary relief from a defendant who is immune from such
relief. 28 U.S.C. § 1915A(b)(1),(2). 25 The court has reviewed plaintiff's amended complaint and
finds that it fails to state a 26 claim upon which relief can be granted under federal law. Plaintiff's
amended complaint must be 27 dismissed. The court will, however, grant leave to file a second
amended complaint. 28 //// 1 If plaintiff chooses to amend, plaintiff must submit a second
amended complaint that is 2 legible. Some key parts of plaintiff's amended complaint are
impossible to decipher. Also, 3 plaintiff's amended complaint is mostly vague and conclusory. In
terms of stating a claim upon 4 which relief can be granted, plaintiff must identify specific actions
taken by a particular defendant 5 that led to a discernable injury suffered by him. As plaintiff has
already been informed, plaintiff 6 must allege in specific terms how each named defendant is
involved. There can be no liability 7 under 42 U.S.C. § 1983 unless there is some affirmative link
or connection between a defendant's 8 actions and the claimed deprivation. *Rizzo v. Goode*, 423
U.S. 362 (1976). 9 Plaintiff alleges that defendants are responsible for him being attacked by other
inmates. 10 Under the Eighth Amendment, "prison officials have a duty to protect prisoners from
violence at 11 the hands of other prisoners." *Farmer v. Brennan*, 511 U.S. 825, 833 (1994)
(internal quotation 12 marks, ellipsis, and citation omitted). However, "not . . . every injury
suffered by one prisoner at 13 the hands of another . . . translates into constitutional liability for
prison officials responsible for 14 the victim's safety." *Id.* at 834. A prison official may be held
liable for an assault suffered by 15 one inmate at the hands of another only when the assaulted
inmate can show that the injury is 16 sufficiently serious, and that the prison official was
deliberately indifferent to the risk of harm.

17 *Id.* at 834, 837. Thus, the relevant inquiry is whether prison officials, "acting with deliberate
18 indifference, exposed a prisoner to a sufficiently substantial risk of serious damage to his future
19 health." *Id.* at 834 (internal quotation omitted). To be deliberately indifferent, the "official must
20 both be aware of facts from which the inference could be drawn that a substantial risk of
serious 21 harm exists, and he must also draw the inference." *Id.* 22 Plaintiff also asserts that
defendants retaliated against him for plaintiff's use of the inmate 23 grievance procedure. In order

to state a claim for retaliation, plaintiff must point to facts 24 indicating a causal connection between the adverse action and the protected conduct. *Watison v. 25 Carter*, 668 F.3d 1108, 1114 (9th Cir. 2012). Plaintiff cannot simply assert he utilized the 26 grievance process and then something adverse happened to him. 27 Further, plaintiff asserts that he was improperly found guilty at prisoner disciplinary 28 proceedings. Any challenge to prisoner disciplinary proceedings which resulted in the revocation 1 of good conduct sentence credit must be brought in a petition for writ of habeas corpus and not a 2 42 U.S.C. § 1983 action unless the revoked sentence credit has been restored. See *Edwards v. 3 Balisok*, 520 U.S. 641, 646-47 (1996). In order to state a cognizable claim for violation of due 4 process during prisoner disciplinary proceeding which did not result in the revocation of good 5 conduct sentence credit, plaintiff must allege facts which suggest that he was deprived of a 6 protected liberty interest. Such liberty interests are “generally limited to freedom from restraint 7 which, while not exceeding the sentence in such an unexpected manner as to give rise to 8 protection by the Due Process Clause of its own force, [citations omitted], nonetheless imposes 9 atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life.” 10 *Sandin v. Connor*, 515 U.S. 472, 484 (1995). 11 While it is not clear, it appears that plaintiff also challenges the denial of parole. When a 12 state prisoner challenges the legality of his custody, and the relief he seeks is the determination of 13 his entitlement to an earlier or immediate release, his sole federal remedy is a writ of habeas 14 corpus which plaintiff would seek under 28 U.S.C. § 2254. *Preiser v. Rodriguez*, 411 U.S. 475, 15 500 (1973). Also, to the extent plaintiff seeks damages for having been denied parole, plaintiff is 16 informed he cannot proceed on a § 1983 claim for damages if the claim implies the invalidity of 17 his conviction or sentence. *Heck v. Humphrey*, 512 U.S. 477, 487 (1994). 18 Finally, plaintiff is informed that the court cannot refer to a prior pleading in order to 19 make plaintiff’s second amended complaint complete. Local Rule 220 requires that an amended 20 complaint be complete in itself without reference to any prior pleading. 21 In accordance with the above, IT IS HEREBY ORDERED that: 22 1. Plaintiff’s amended complaint is dismissed. 23 2. Plaintiff is granted thirty days from the date of service of this order to file a second 24 amended complaint that complies with the requirements of the Civil Rights Act, the Federal Rules 25 of Civil Procedure, and the Local Rules of Practice. The second amended complaint must bear 26 // 27 // 28 // 1 | the docket number assigned this case and must be labeled “Second Amended Complaint.” Failure 2 || to file a second amended complaint in accordance with this order will result in a recommendation 3 || that this action be dismissed. 4 || Dated: March 6, 2023 Card it | i a la la a

5 CAROLYN K DELANEY?

6 UNITED STATES MAGISTRATE JUDGE

7 8 9 wree0719.14(2) 10 1] 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28