

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Coronel v. Havard

Coronel · No. 2:24-cv-3087-JDP (P) · Decided April 24, 2025

SUMMARY

The court recommends dismissing without prejudice a state inmate’s first amended civil rights complaint alleging excessive force and due process violations. Dismissal is recommended because the complaint shows on its face that the plaintiff had not exhausted available administrative remedies before filing suit.

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	April 24, 2025
DOCKET	2:24-cv-3087-JDP (P)
DISPOSITION	other
PROCEDURAL POSTURE	A pro se state prisoner filed an amended civil rights complaint under 42 U.S.C. § 1983. On screening, the magistrate judge recommended dismissal without prejudice because the complaint established on its face that administrative remedies had not been exhausted.
STANDARD OF REVIEW	At screening, the court determines whether the complaint is frivolous or malicious, fails to state a claim, or seeks monetary relief from an immune defendant. Failure to exhaust may ordinarily be resolved on summary judgment, but dismissal at screening is appropriate when nonexhaustion is clear from the face of the complaint and attached exhibits.
PRECEDENTIAL VALUE	Unknown; magistrate judge findings and recommendations in a district court action
PARTIES	Hank Richard Coronel v. Havard

TOPICS

prisoners rights

section 1983

civil rights

pleadings

civil procedure

PRACTICE AREAS

prisoner civil rights

civil procedure

constitutional law

QUESTIONS PRESENTED

1. Whether the first amended complaint should be dismissed at screening because the face of the complaint establishes that plaintiff failed to exhaust available administrative remedies before filing suit.
2. Whether a prisoner may exhaust administrative remedies while a civil rights action is pending.

HOLDINGS

1. When a prisoner's failure to exhaust available administrative remedies is clear from the face of the complaint and attached materials, the action may be dismissed at screening rather than deferred to a motion for summary judgment.
2. A prisoner must complete exhaustion before filing suit and may not cure the failure to exhaust by exhausting administrative remedies while the action is pending.

KEY QUOTATIONS

"The availability of administrative remedies must be assessed at the time the prisoner filed his action." (at 1)

"Exhaustion must occur prior to filing suit, and a plaintiff cannot exhaust while the suit is pending." (at 3)

FACTUAL BACKGROUND

Plaintiff alleged that Sergeant Havard and another sergeant called him to Havard's office for a confidential interview. He alleged that Havard threw him against a wall, kned him in the face, and twisted his wrists in handcuffs, asserting Eighth and Fourteenth Amendment violations. Plaintiff's amended complaint indicated that administrative remedies were available, that he had submitted requests for relief, but that he had not appealed them to the highest level because he had not received a response.

PROCEDURAL HISTORY

The court previously dismissed plaintiff's original complaint because it appeared that he had failed to exhaust administrative remedies and advised him to address exhaustion in any amended complaint. Plaintiff filed a first amended complaint and confirmed that he had not appealed his administrative requests to the highest level because he had not yet received a response. The magistrate judge recommended dismissal without prejudice and directed that the findings and recommendations be submitted to an assigned district judge for review after the objection period.

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 (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)
- Ross v. Blake, 578 U.S. 632, 635 (2016)
- Andres v. Marshall, 867 F.3d 1076, 1079 (9th Cir. 2017)
- Albino v. Baca, 747 F.3d 1162, 1166 (9th Cir. 2014)
- Medina v. Sacramento Cnty. Sheriff's Dep't, No. 2:16-cv-0765-AC-P, 2016 WL 6038181, at *3 (E.D. Cal. Oct. 14, 2016)
- McKinney v. Carey, 311 F.3d 1198, 1199-1201 (9th Cir. 2002)
- Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998)
- Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 HANK RICHARD CORONEL, Case No. 2:24-cv-3087-JDP (P) 12 Plaintiff,
13 v. ORDER; FINDINGS AND RECOMMENDATIONS 14 HAVARD, 15 Defendant. 16 17 18
Plaintiff, a state inmate proceeding pro se, alleges in his first amended complaint that 19
defendants Sergeant Havard, a correctional officer at California State Prison-Sacramento, and the
20 California Department of Corrections, used excessive force against him in violation of the
Eighth 21 Amendment and violated his due process rights by filing a false disciplinary charge
against him.

22 ECF No. 10. I recommend that plaintiff's first amended complaint be dismissed without 23
prejudice because it is evident from the face of the complaint that plaintiff has not exhausted his
24 administrative remedies. 25 Screening and Pleading Requirements 26 A federal court must
screen the complaint of any claimant seeking permission to proceed 27 in forma pauperis.

See 28 U.S.C. § 1915(e). The court must identify any cognizable claims and 28 dismiss any
portion of the complaint that is frivolous or malicious, fails to state a claim upon 1 which relief
may be granted, or seeks monetary relief from a defendant who is immune from such 2 relief. Id. 3
A complaint must contain a short and plain statement that plaintiff is entitled to relief, 4 Fed.

R. Civ. P. 8(a)(2), and provide “enough facts to state a claim to relief that is plausible on its face,” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The plausibility standard does not require detailed allegations, but legal conclusions do not suffice. See *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). If the allegations “do not permit the court to infer more than the mere possibility of misconduct,” the complaint states no claim.

Id. at 679. The complaint need not identify “a precise legal theory.” *Kobold v. Good Samaritan Reg’l Med. Ctr.*, 832 F.3d 1024, 1038 (9th Cir. 2016). Instead, what plaintiff must state is a “claim”—a set of “allegations that give rise to an enforceable right to relief.” *Nagrampa v. MailCoups, Inc.*, 469 F.3d 1257, 1264 n.2 (9th Cir. 2006) (en banc) (citations omitted).

The court must construe a pro se litigant’s complaint liberally. See *Haines v. Kerner*, 404 U.S. 519, 520 (1972) (per curiam). The court may dismiss a pro se litigant’s complaint “if it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.” *Hayes v. Idaho Corr. Ctr.*, 849 F.3d 1204, 1208 (9th Cir.

2017). However, “a liberal interpretation of a civil rights complaint may not supply essential elements of the claim that were not initially pled.” *Bruns v. Nat’l Credit Union Admin.*, 122 F.3d 1251, 1257 (9th Cir. 1997) (quoting *Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982)). Plaintiff alleges that Havard and another sergeant called him into Havard’s office for a confidential interview.

ECF No. 10 at 3. Plaintiff alleges that Havard became aggravated at plaintiff’s answers, and that Havard threw him against the wall, kneed him in the face, and twisted his wrists into the handcuffs to a point where he thought his wrists were broken. *Id.* He alleges that these actions violated his Eighth and Fourteenth Amendment rights. *Id.* at 3-4. It is evident from the face of the complaint that plaintiff did not exhaust his available administrative remedies, and his complaint must be dismissed as a result. “The Prison Litigation Reform Act of 1995... mandates that an inmate exhaust ‘such administrative remedies as are available’ before bringing suit to challenge prison conditions.” *Ross v. Blake*, 578 U.S. 632, 635 (2016) (quoting 42 U.S.C. § 1997e(a)).

The availability of administrative remedies must be assessed at the time the prisoner filed his action. See *Andres v. Marshall*, 867 F.3d 1076, 1079 (9th Cir. 2017). Although dismissal of a prisoner civil rights action for failure to exhaust administrative remedies must generally be decided pursuant to a motion for summary judgment, see *Albino v. Baca*, 747 F.3d 1162 (9th Cir.

2014), a court can also dismiss a case at screening “[i]n the rare event that a failure to exhaust is clear on the face of the complaint,” *id.* at 1166. See also *Medina v. Sacramento Cnty. Sheriff’s Dep’t*, No. 2:16-cv-0765-AC-P, 2016 WL 6038181, at *3 (E.D. Cal. Oct. 14, 2016) (“When it is clear from the face of the complaint and any attached exhibits that a plaintiff did not exhaust

his available administrative remedies before commencing an action, the action may be dismissed on screening.”).

I dismissed plaintiff’s original complaint because it appeared that plaintiff failed to exhaust his administrative remedies. See ECF No. 7. I informed plaintiff that he needed to indicate whether he exhausted his administrative remedies if he chose to file an amended complaint. See *id.* at 3-4. Plaintiff chose to file an amended complaint, in which he confirms that he has not exhausted his administrative remedies.

For his claims, plaintiff checked the boxed for “Yes” in response to the questions, “Are there any administrative remedies... available at your institution?” and “Did you submit a request for administrative relief on Claim I?” See ECF No. 10 at 3-4. Plaintiff checked the box “No” for the answer to the question of “Did you appeal your request for relief on Claim I to the highest level?” and “Did you appeal your request for relief on Claim II to the highest level?” See *id.* He states that he has not received an answer for his administrative complaint, so he cannot yet appeal it.

See *id.* Exhaustion must occur prior to filing suit, and a plaintiff cannot exhaust while the suit is pending. *McKinney v. Carey*, 311 F.3d 1198, 1199-1201 (9th Cir. 2002). As such, the appropriate outcome for this case is dismissal without prejudice for failure to exhaust administrative remedies. See *Albino*, 747 F.3d at 1166; *Medina*, 2016 WL 6038181, at *3.

Accordingly, it is ORDERED that the Clerk of Court is directed to assign a district judge to this action. Further, it is RECOMMENDED that plaintiff’s first amended complaint be DISMISSED without prejudice for failure to exhaust administrative remedies, and the Clerk of Court be directed to close this action. These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1).

Within fourteen days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the objections shall be served and filed within fourteen days after service of the objections.

The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court’s order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Yist*, 951 F.2d 1153 (9th Cir. 1991). IT IS SO ORDERED. (1 Ow — Dated: _ April 24, 2025 Q—— 16 JEREMY D. PETERSON 7 UNITED STATES MAGISTRATE JUDGE 18 19 20 21 22 23 24 25 26 27 28

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