

**UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA**

Rayon Jones v. F. Ruiz, et al.

Case No. 25-cv-06050-CRB (PR) · No. 25-cv-06050-CRB (PR) · Decided January 29, 2026

OPINION

Jones

PER CURIAM.

1 2 3 4

5 UNITED STATES DISTRICT COURT

6 NORTHERN DISTRICT OF CALIFORNIA

7 8 RAYON JONES, G35669, Case No. 25-cv-06050-CRB (PR) 9 Plaintiff,

ORDER OF SERVICE

10 v. 11 F. RUIZ, et al., 12 Defendant(s). 13 Plaintiff, a prisoner at Salinas Valley State Prison
(SVSP) and frequent litigant in federal 14 court, has filed a pro se First Amended Complaint
(FAC) under 42 U.S.C. § 1983 alleging that on

15 May 30, 2024, two correctional officers at SVSP – F. Ruiz and M. Lupo – used excessive force
16 against her.1 Plaintiff specifically alleges that after she finished a video settlement conference
in 17 connection with a prior § 1983 action, Ruiz and Lupo “became very angry” and when she
asked to 18 speak to the captain proceeded to “grab plaintiff and use excessive force by slamming
plaintiff to 19 the ground” and injuring the right side of plaintiff’s head and ear. ECF No. 9 (FAC)
at 4.

20 DISCUSSION

21 A. Standard of Review 22 Federal courts must engage in a preliminary screening of cases in
which prisoners seek 23 redress from a governmental entity or officer or employee of a
governmental entity. 28 U.S.C. § 24 1915A(a). The court must identify cognizable claims or
dismiss the complaint, or any portion of 25 the complaint, if the complaint “is frivolous,
malicious, or fails to state a claim upon which relief 26 may be granted,” or “seeks monetary relief
from a defendant who is immune from such relief.” Id. 27 1 § 1915A(b). Pro se pleadings must be
liberally construed. *Balistreri v. Pacifica Police Dep’t*, 901 2 F.2d 696, 699 (9th Cir. 1990). 3 To
state a claim under 42 U.S.C. § 1983, a plaintiff must allege two elements: (1) that a 4 right
secured by the Constitution or laws of the United States was violated, and (2) that the alleged 5
violation was committed by a person acting under the color of state law. *West v. Atkins*, 487 U.S.
6 42, 48 (1988). 7 B. Legal Claims 8 Whenever prison officials stand accused of using excessive
force in violation of the Eighth 9 Amendment, the core judicial inquiry is whether force was
applied in a good-faith effort to 10 maintain or restore discipline, or maliciously and sadistically to

cause harm. *Hudson v. 11 McMillian*, 503 U.S. 1, 6-7 (1992). In determining whether the use of force was for the purpose of 12 maintaining or restoring discipline, or for the malicious and sadistic purpose of causing harm, a 13 court may evaluate the need for application of force, the relationship between that need and the 14 amount of force used, the extent of any injury inflicted, the threat reasonably perceived by the 15 responsible officials, and any efforts made to temper the severity of a forceful response. *Id.* at 7. 16 Liberally construed, plaintiff's allegations appear to state an arguably cognizable claim 17 under § 1983 for use of excessive force in violation of the Eighth Amendment against Ruiz and 18 Lupo and will be ordered served against these two defendants. But Warden Kelly Santoro is 19 dismissed because she is named based on her capacity as warden and it is well established that 20 there is no liability under § 1983 solely because one is responsible for the actions or omissions of 21 another. See *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989) (there is no "respondeat 22 superior" liability under § 1983).

23 CONCLUSION

24 For the foregoing reasons and for good cause shown, 25 1. The following defendant(s) shall be served: 26 a. F. Ruiz, Correctional Officer at SVSP; and 27 b. M. Lupo, Correctional Officer at SVSP. 1 Service on the listed defendant(s) shall proceed under the California Department of 2 Corrections and Rehabilitation's (CDCR) e-service program for civil rights cases from prisoners 3 in CDCR custody. In accordance with the program, the clerk is directed to serve on CDCR via 4 email the following documents: the operative FAC, this order of service, a CDCR Report of E- 5 Service Waiver form and a summons. The clerk also shall serve a copy of this order on the 6 plaintiff. 7 No later than 40 days after service of this order via email on CDCR, CDCR shall file with 8 the court a completed CDCR Report of E-Service Waiver advising the court which defendant(s) 9 listed in this order will be waiving service of process without the need for service by the United 10 States Marshal Service (USMS) and which defendant(s) decline to waive service or could not be 11 reached. CDCR also shall provide a copy of the CDCR Report of E-Service Waiver to the 12 California Attorney General's Office which, within 21 days, shall file with the court a waiver of 13 service of process for the defendant(s) who are waiving service. 14 Upon the filing of the CDCR Report of E-Service Waiver, the clerk shall prepare for each 15 defendant who has not waived service according to the CDCR Report of E-Service Waiver a 16 USM-285 Form. The clerk shall provide to the USMS the completed USM-285 forms and copies 17 of this order, the summons and the operative complaint for service upon each defendant who has 18 not waived service. The clerk also shall provide to the USMS a copy of the CDCR Report of E- 19 Service Waiver. 20 2. In order to expedite the resolution of this case, the court orders as follows: 21 a. No later than 90 days from the date of this order, defendants shall serve and 22 file a motion for summary judgment or other dispositive motion. A motion for summary judgment 23 must be supported by adequate factual documentation and must conform in all respects to Federal 24 Rule of Civil Procedure 56, and must include as exhibits all records and incident reports stemming 25 from the events at issue. A motion for summary judgment also must be accompanied by a Rand 26

notice so that plaintiff will have fair, timely and adequate notice of what is required of him in 27 order to oppose the motion. *Woods v. Carey*, 684 F.3d 934, 935 (9th Cir. 2012) (notice 1 concurrently with motion for summary judgment). A motion to dismiss for failure to exhaust 2 available administrative remedies (where such a motion, rather than a motion for summary 3 judgment for failure to exhaust, is appropriate) must be accompanied by a similar notice. *Stratton 4 v. Buck*, 697 F.3d 1004, 1008 (9th Cir. 2012); *Woods*, 684 F.3d at 935 (notice requirement set out 5 in *Wyatt v. Terhune*, 315 F.3d 1108 (9th Cir. 2003), overruled on other grounds by *Albino v. 6 Baca*, 747 F.3d 1162, 1166 (9th Cir. 2014) (en banc), must be served concurrently with motion to 7 dismiss for failure to exhaust available administrative remedies). 8 If defendants are of the opinion that this case cannot be resolved by summary judgment or 9 other dispositive motion, they shall so inform the court prior to the date their motion is due. All 10 papers filed with the court shall be served promptly on plaintiff. 11 b. Plaintiff must serve and file an opposition or statement of non-opposition to 12 the dispositive motion not more than 28 days after the motion is served and filed. 13 c. Plaintiff is advised that a motion for summary judgment under Rule 56 of 14 the Federal Rules of Civil Procedure will, if granted, end your case. Rule 56 tells you what you 15 must do in order to oppose a motion for summary judgment. Generally, summary judgment must 16 be granted when there is no genuine issue of material fact – that is, if there is no real dispute about 17 any fact that would affect the result of your case, the party who asked for summary judgment is 18 entitled to judgment as a matter of law, which will end your case. When a party you are suing 19 makes a motion for summary judgment that is properly supported by declarations (or other sworn 20 testimony), you cannot simply rely on what your complaint says. Instead, you must set out 21 specific facts in declarations, depositions, answers to interrogatories, or authenticated documents, 22 as provided in [current Rule 56(c)], that contradicts the facts shown in the defendant’s declarations 23 and documents and show that there is a genuine issue of material fact for trial. If you do not 24 submit your own evidence in opposition, summary judgment, if appropriate, may be entered 25 against you. If summary judgment is granted, your case will be dismissed and there will be no 26 trial. *Rand v. Rowland*, 154 F.3d 952, 962-63 (9th Cir. 1998) (en banc) (App. A). 27 Plaintiff also is advised that a motion to dismiss for failure to exhaust available 1 prejudice. You must “develop a record” and present it in your opposition in order to dispute any 2 “factual record” presented by the defendants in their motion to dismiss. *Wyatt v. Terhune*, 315 3 F.3d 1108, 1120 n.14 (9th Cir. 2003). You have the right to present any evidence to show that you 4 did exhaust your available administrative remedies before coming to federal court. Such evidence 5 may include: (1) declarations, which are statements signed under penalty of perjury by you or 6 others who have personal knowledge of relevant matters; (2) authenticated documents – 7 documents accompanied by a declaration showing where they came from and why they are 8 authentic, or other sworn papers such as answers to interrogatories or depositions; (3) statements 9 in your complaint insofar as they were made under penalty of perjury and they show that you have 10 personal knowledge of the matters state therein. In considering a

motion to dismiss for failure to 11 exhaust, the court can decide disputed issues of fact with regard to this portion of the case. 12 Stratton, 697 F.3d at 1008-09. 13 (The Rand and Wyatt/Stratton notices above do not excuse defendants' obligation to serve 14 said notices again concurrently with motions to dismiss for failure to exhaust available 15 administrative remedies and motions for summary judgment. Woods, 684 F.3d at 935.) 16 d. Defendants must serve and file a reply to an opposition not more than 14 17 days after the opposition is served and filed. 18 e. The motion shall be deemed submitted as of the date the reply is due. No 19 hearing will be held on the motion unless the court so orders at a later date. 20 3. Discovery may be taken in accordance with the Federal Rules of Civil Procedure. 21 No further court order under Federal Rule of Civil Procedure 30(a)(2) or Local Rule 16 is required 22 before the parties may conduct discovery. 23 4. All communications by plaintiff with the court must be served on defendants, or 24 defendants' counsel once counsel has been designated, by mailing a true copy of the document to 25 defendants or defendants' counsel. 26 5. It is plaintiff's responsibility to prosecute this case. Plaintiff must keep the court 27 and all parties informed of any change of address and must comply with the court's orders in a] of Civil Procedure 41(b). 2 IT ISSO ORDERED. 3 Dated: January 29, 2026 4 2K

CHARLES R. BREYER

5 United States District Judge 6 7 8 9 10 1] 12 15 16 17 Z 18 19 20 21 22 23 24 25 26 27 28