

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

Corderro Donte Miller v. Jason Schultz

Miller v. Schultz · No. 2:25-cv-02015 SCR P · Decided December 22, 2025

SUMMARY

The document is a magistrate judge’s order and findings and recommendations in a prisoner civil rights action under 42 U.S.C. § 1983. The court concludes that the plaintiff’s challenge to the denial or revocation of good-time credits, and request for immediate parole, must be pursued through habeas corpus rather than a § 1983 action. It recommends dismissal without prejudice and without leave to amend and denial of the motion to proceed in forma pauperis.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 CORDERRO DONTÉ MILLER, No. 2:25-cv-02015 SCR P 12 Plaintiff, 13
v. ORDER AND 14 JASON SCHULTZ, FINDINGS & RECOMMENDATIONS 15 Defendant.
16 17 Plaintiff is incarcerated in state prison and proceeding pro se with a civil rights action 18
under 42 U.S.C. § 1983. Plaintiff’s complaint is before the undersigned for screening under 28 19
U.S.C. § 1915A.

Plaintiff has also requested leave to proceed in forma pauperis under 28 U.S.C. 20 § 1915. ECF
No. 2. 21 As explained below, Plaintiff’s request for injunctive relief – specifically, an order 22
overturning the denial and revocation of his earned good-time credits – must be brought in 23
habeas, not a civil rights complaint under § 1983.

Therefore, the undersigned recommends the 24 complaint be dismissed without prejudice and
without leave to amend for failure to state a claim. 25 For the same reasons, it is recommended
that plaintiff’s motion to proceed in forma pauperis be 26 denied. See *Tripati v. First Nat’l Bank &
Tr.*, 821 F.2d 1368, 1370 (9th Cir. 1987) (“A district 27 court may deny leave to proceed in forma
pauperis at the outset if it appears from the face of the 28 proposed complaint that the action is
frivolous or without merit.”).

1 STATUTORY SCREENING 2 The court is required to screen complaints brought by prisoners
seeking relief against “a 3 governmental entity or officer or employee of a governmental entity.”
28 U.S.C. § 1915A(a). In 4 performing this screening function, the court must dismiss any claim
that “(1) is frivolous, 5 malicious, or fails to state a claim upon which relief may be granted; or (2)
seeks monetary relief 6 from a defendant who is immune from such relief.” *Id.* § 1915A(b).

A claim is legally frivolous 7 when it lacks an arguable basis either in law or in fact. *Neitzke v. Williams*, 490 U.S. 319, 325 8 (1989). The court may dismiss a claim as frivolous if it is based on an indisputably meritless 9 legal theory or factual contentions that are baseless. *Neitzke*, 490 U.S. at 327.

The critical 10 inquiry is whether a constitutional claim, however inartfully pleaded, has an arguable legal and 11 factual basis. See *Jackson v. Arizona*, 885 F.2d 639, 640 (9th Cir. 1989). 12 In order to avoid dismissal for failure to state a claim a complaint must contain more than 13 “naked assertions,” “labels and conclusions” or “a formulaic recitation of the elements of a cause 14 of action.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-557 (2007).

In other words, 15 “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory 16 statements do not suffice.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A claim upon which the 17 court can grant relief has facial plausibility. *Twombly*, 550 U.S. at 570. “A claim has facial 18 plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable 19 inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 678.

When 20 considering whether a complaint states a claim, the court must accept the allegations as true, 21 *Erickson v. Pardus*, 551 U.S. 89, 93-94 (2007), and construe the complaint in the light most 22 favorable to the plaintiff, *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974). 23 PLAINTIFF’S COMPLAINT 24 Plaintiff is incarcerated in California State Prison, Sacramento (“CSP-Sac”).

ECF No. 1 25 at 1. The complaint names one defendant, CSP-Sac Warden Jason Schultz. *Id.* at 2. Plaintiff 26 alleges prison officials violated his due process rights by denying “restoration” of his good-time 27 credits after he had been discipline-free for 90 days or more. *Id.* at 3. Prison officials failed to 28 apply to his sentence earned milestone completions that were approved on March 13, 2025.

Id. 1 Plaintiff claims that restoration of his good-time credits will lead to his immediate release and 2 grant a speedier parole than the current date of May 20, 2027. *Id.* There are four different RVRs 3 and each docked 121 days or more. *Id.* at 6. Plaintiff claims that under Cal. Penal Code § 4 2932(a)(4)(4), no more than 30 days of credit may be lost for a single act of misconduct.

Id. 5 Plaintiff alleges an injury of permanent mental health damage. ECF No. 1 at 6. He does 6 not seek any monetary damages. Instead, he seeks an order to “restore all good-conduct credits 7 that were illegally forfeited” and “grant immediate parole.” *Id.* at 3, 6. 8 DISCUSSION 9 The undersigned construes plaintiff’s complaint as rising two separate types of procedural 10 due process claims under the Fourteenth Amendment related to good-time credits.

First, he 11 alleges that he earned good-time credits for 90 days of good behavior, but defendant never 12 awarded them. Second, at the very end of the complaint in the request for relief (ECF

No. 1 at 6), 13 he appears to allege that he received RVR punishments that exceeded the number of good-time 14 credits that can be deducted under state law. 15 Persons incarcerated in California prisons have a protected liberty interest in good-time 16 credits, provided they earned the credits under applicable state laws.

See *Wolff v. McDonnell*, 17 418 U.S. 539, 556-57 (1974); *Bergen v. Spaulding*, 881 F.2d 719, 721 (9th Cir. 1989); see also 18 Cal. Code Regs., tit. 15, § 3043 (“[A]ll incarcerated persons who participate in approved 19 rehabilitative programs and activities... shall be eligible to earn Milestone Completion 20 Credit[.]”).

Therefore, persons incarcerated in California prisons are entitled to the “minimum 21 procedures appropriate under the circumstances and required by the Due Process Clause” to 22 ensure that prison officials do not arbitrarily deny state-created rights to good-time credits. See 23 *Wolff*, 418 U.S. at 557. 24 Although prison officials cannot deprive plaintiff of his earned good-time credits without 25 due process, it is well-established that “a state prisoner seeking injunctive relief against the denial 26 or revocation of good-time credits must proceed in habeas corpus, and not under § 1983.” 27 *Nonnette v. Small*, 316 F.3d 872, 875 (9th Cir.

2002) (citing *Preiser v. Rodriguez*, 411 U.S. 475, 28 489 (1973)). As this is the precise type of injunctive relief that plaintiff seeks here, his claim does 1 not sound in § 1983 and must be brought in a habeas petition. 2 The circumstances do not warrant conversion of plaintiff’s § 1983 complaint into a habeas 3 petition. See *Trimble v. City of Santa Rosa*, 49 F.3d 583, 586 (9th Cir.

1995) (“When the intent 4 to bring a habeas petition is not clear, however, the district court should not convert a defective 5 section 1983 claim into a habeas petition.”). For one, plaintiff’s challenge to the denial of good- 6 time credits is unlikely to state a cognizable federal habeas claim. “[F]ederal habeas corpus 7 relief does not lie for errors of state law.” *Swarthout v. Cooke*, 562 U.S. 216, 220 (2011) 8 (quoting *Estelle v. McGuire*, 502 U.S. 62, 67 (1991)); see also *Robison v. CDCR*, No. 2:18-cv- 9 0441 AC P, 2018 WL 6329661, at *3 (E.D.

Cal. Dec. 4, 2018) (declining to convert plaintiff’s § 10 1983 complaint challenging denial of milestone credits to a habeas petition and recommending 11 dismissal without prejudice), report and recommendation adopted, No. 2:18-cv-0441 JAM AC P 12 (E.D. Cal. Apr. 17, 2019). Further, it does not appear that plaintiff exhausted state court 13 remedies. See 28 U.S.C. § 2254(b).

14 Accordingly, because plaintiff’s complaint fails to cognizable claim for relief under § 15 1983, the undersigned recommends it be dismissed without prejudice and without leave to amend. 16 Plaintiff is instructed that his claim must be addressed in a habeas petition and not in a civil rights 17 claim under 42 U.S.C. § 1983. 18 CONCLUSION 19 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court shall randomly 20 assign a District Judge to this action.

21 IT IS FURTHER RECOMMENDED that: 22 1. Plaintiff's complaint (ECF No. 1) be
dismissed without leave to amend for failure 23 to state a claim; 24 2. Plaintiff's motion to
proceed in forma pauperis (ECF No. 2) be denied; and 25 3.

The case be dismissed in its entirety without prejudice to renewal in an appropriate 26 action. 27
These findings and recommendations are submitted to the United States District Judge 28
assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one days 1
| after being served with these findings and recommendations, plaintiff may file written objections
2 || with the court.

Such a document should be captioned "Objections to Magistrate Judges Findings 3 || and
Recommendations." Plaintiff is advised that failure to file objections within the specified 4 | time
may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 5 || (Oth
Cir. 1991). 6 | DATED: December 19, 2025 8 SEAN C. RIORDAN 9 UNITED STATES
MAGISTRATE JUDGE 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28