Phelps v. Mimms et al Doc. 13 Att. 1

Plaintiff's Name_____

Inmate No._____

Address _____

_____

_____

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

_____

(Name of Plaintiff) (Case Number)

vs.

_____

_____

_____

_____

_____

_____

(Names of all Defendants)

AMENDED CIVIL RIGHTS COMPLAINT UNDER:

☐ **42 U.S.C. 1983 (State Prisoner)**

☐ **Bivens Action [403 U.S. 388 (1971)] (Federal Prisoner)**

I. Previous Lawsuits (list all other previous or pending lawsuits on additional page):

A. Have you brought any other lawsuits while a prisoner? Yes____ No____

B. If your answer to A is yes, how many? _____

Describe previous or pending lawsuits in the space below. (If more than one, attach additional page to continue outlining all lawsuits in same format.)

1. Parties to this previous lawsuit:

Plaintiff _____

Defendants _____

_____

2. Court (if Federal Court, give name of District; if State Court, give name of County)

_____

3. Docket Number _____ 4. Assigned Judge _____

5. Disposition (Was the case dismissed? Appealed? Is it still pending?)

_____

Dockets.Justia.com

6. Filing Date (approx.) _____ 7. Disposition Date (approx.) _____

II. Exhaustion of Administrative Remedies

NOTICE: Pursuant to the Prison Litigation Reform Act of 1995, "[n]o action shall be brought with respect to prison conditions under [42 U.S.C. § 1983], or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." 42 U.S.C. § 1997e(a). Prior to filing suit, inmates are required to exhaust the available administrative remedy process, *Jones v. Bock*, 549 U.S. 199, 211, 127 S.Ct. 910, 918-19 (2007); *McKinney v. Carey*, 311 F.3d 1198, 1999 (9th Cir. 2002), and neither futility nor the unavailability of money damages will excuse the failure to exhaust, *Porter v. Nussle*, 534 U.S. 516, 524, 122 S.Ct. 983, 988 (2002). If the court determines that an inmate failed to exhaust prior to filing suit, the unexhausted claims will be dismissed, without prejudice. *Jones*, 549 U.S. at 223-24, 127 S.Ct. at 925-26.

A. Is there an inmate appeal or administrative remedy process available at your institution?

Yes_____ No_____

B. Have you filed an appeal or grievance concerning **ALL** of the facts contained in this complaint?

Yes_____ No_____

C. Is the process completed?

Yes_____ If your answer is yes, briefly explain what happened at each level.

_____

_____

_____

_____

_____

No_____ If your answer is no, explain why not.

_____

_____

_____

_____

_____

III. Defendants

List each defendant's full name, official position, and place of employment and address in the spaces below. If you need additional space please provide the same information for any additional defendants on separate sheet of paper.

A. Name _____ is employed as _____

Current Address/Place of Employment _____

B. Name _____ is employed as _____

Current Address/Place of Employment _____

C. Name _____ is employed as _____

Current Address/Place of Employment _____

D. Name _____ is employed as _____

Current Address/Place of Employment _____

E. Name _____ is employed as _____

Current Address/Place of Employment _____

IV. Causes of Action (You may attach additional pages alleging other causes of action and the facts supporting them if necessary. Must be in same format outlined below.)

Claim 1: The following civil right has been violated (e.g. right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.):

_____

_____

_____

Supporting Facts (Include all facts you consider important to Claim 1. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Claim 1.):

_____

_____

_____

_____

_____

_____

_____

Claim 2: The following civil right has been violated (e.g. right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.):

Supporting Facts (Include all facts you consider important to Claim 2. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Claim 2.):

_____

_____

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_____

V. Relief

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statues.

_____

_____

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_____

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_____

I declare under penalty of perjury that the foregoing is true and correct.

Date: _____ Signature of Plaintiff: _____

(Revised 4/4/14)