

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

AMOS RYLES,

2:07-cv-02753-RCT

Plaintiff,

vs.

T. FELKER, et al.,

Defendants.

MEMORANDUM DECISION
AND ORDER

_____ /

Amos Ryles originally brought suit against Warden T. Felker, Sergeant W. Patton, and several other California correctional officers from High Desert State Prison in Susanville, California. After screening conducted pursuant to 28 U.S.C. § 1915A(b), only a single claim was permitted to go forward against Sergeant Patton, a former employee of High Desert State Prison.¹ The remaining claim is one for excessive force in violation of the Eighth Amendment prohibition against cruel and unusual punishment brought pursuant to 42 U.S.C. § 1983.

The matter now before the court is Sergeant Patton's Motion for Summary Judgment (#42). Ryles exhausted his administrative appeals through the California Department of Corrections and Rehabilitation. This Court DENIES Sergeant Patton's Motion for Summary

¹ Sergeant Patton has since ceased working for the California Department of Corrections and Rehabilitation. I refer to him as Sergeant Patton throughout this memorandum decision as that was his title during the relevant time period.

1 Judgment (#42).

2
3 PROCEDURAL AND FACTUAL HISTORY
4

5 Ryles is a state prisoner who, until recently, was incarcerated at the Richard J. Donovan
6 Correctional Facility in San Diego, California. The parties agree that in June 2007 Ryles was
7 an inmate at High Desert State Prison where Sergeant Patton was a corrections officer. The
8 Amended Complaint (#13) states that on June 22, 2007, "Sergeant Patton assaulted [Ryles]
9 when [he] was in handcuffs by hitting [him] in [his] facial area and was trying to put a spit
10 mask over [his] face."

11 During his deposition, Ryles explained the incident in more detail. Ryles testified that
12 he was brought into the dining room for an interview regarding a different incident with a
13 corrections officer for which Ryles had previously filed a grievance (referred to as a form CDC
14 602 by the parties). One of the corrections officers present said that Ryles had spit at him and
15 Sergeant Patton placed a spit mask on Ryles. (Mot. for Summ. J. (#42) Ex. A at 87, 92-93.)
16 After the spit mask was in place and while Sergeant Patton was escorting Ryles back to his cell,
17 Ryles contends that Sergeant Patton hit Ryles in the face with a closed fist while walking next
18 to him. (Mot. for Summ. J. (#42) Ex. A. at 89-90, 92-94.)

19 Also on June 22, 2007, Ryles submitted a grievance seeking a transfer to another prison
20 alleging, among other things, that Sergeant Patton "putt [sic] the spit mask on my face push
21 [sic] my face against the wall." (Mot. for Summ. J. (#42) Ex. B at Ex. 2.) Ryles's grievance
22 was, by its own terms, treated primarily as a request for a transfer to a different prison, although
23 it also listed several complaints against prison staff as the basis for the request. (Mot. for
24 Summ. J. (#42) Ex. B. at Ex. 2.) This grievance was properly filed with the prison authorities
25 and went through all three available levels of administrative appeal. At each level of appeal the
26 prison officials found that Ryles's complaint apparently did not "meet the criteria as a staff
27 complaint," because Ryles "failed to provide any evidence supporting [his] allegations of staff
28 misconduct therefore [his] allegation was determined to be unproven." (Mot. for Summ. J.

1 (#42) Ex. B. at Ex. 2.) The prison's decision denying the transfer became final, and the
2 administrative appeals were exhausted, with the Director's Level decision on December 3,
3 2007. (Mot. for Summ. J. (#42) Ex. B at 2-3.) The Director's Level appeal determined, in
4 relevant part, that Ryles's "dissatisfaction with staff actions [did] not rise to the level of staff
5 misconduct." (Mot. for Summ. J. (#42) Ex. B. at Ex. 2.)

6 Ryles brought this suit in the Eastern District of California on December 20, 2007.
7 Sergeant Patton filed his Motion for Summary Judgment (#42) on June 1, 2010, and Ryles
8 failed to timely respond with opposing papers. The Court previously denied a motion, filed
9 after the deadline had passed, to extend the time to reply given the pendency of the August 9,
10 2010, trial date. (Order (#47).)

11 12 CLAIM

13
14 Ryles now raises the following claim:

15 1. Sergeant Patton violated Ryles's Eighth Amendment right to be free from cruel and
16 unusual punishment by hitting him in the face with a closed fist on June 22, 2007.

17 18 LEGAL STANDARD

19
20 Summary judgment is proper when the "pleadings, the discovery and disclosure
21 materials on file, and any affidavits show that there is no genuine issue as to any material fact
22 and that the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). The court
23 views the record in the light most favorable to the non-moving party. *Anderson v. Liberty*
24 *Lobby, Inc.*, 477 U.S. 242, 255 (1986).

25 If the movant initially shows that no genuine issue exists for trial, the non-movant cannot
26 then rest on the pleadings but must respond with evidence setting forth "specific facts showing a
27 genuine issue for trial." Fed. R. Civ. P. 56(e). The non-moving party has the "burden of
28 advert[ing] to 'specific facts showing that there is a genuine issue for trial.' . . . It is not the

1 district court's job to sift through the record to find admissible evidence in support of the non-
2 moving party's case." *Claar v. Burlington N. R.R.*, 29 F.3d 499, 504 (9th Cir. 1994) (quoting
3 *Celotex Corp. v. Catrett*, 477 U.S. 317, 324 (1986)). When "the record taken as a whole could
4 not lead a rational trier of fact to find for the non-moving party, there is no genuine issue for
5 trial." *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986).

6 7 DISCUSSION

8
9 Sergeant Patton contends that summary judgment is proper in this case because the
10 current action is barred by the Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a).
11 The PLRA provides, "No action shall be brought with respect to prison conditions under [42
12 U.S.C. § 1983], or any other Federal law, by a prisoner confined in any jail, prison, or other
13 correctional facility until such administrative remedies as are available are exhausted." 42
14 U.S.C. § 1997e(a). Sergeant Patton concedes that Ryles exhausted his administrative remedies
15 as to his complaint that on June 22, 2007, Sergeant Patton pushed his face into a wall while
16 putting on the spit mask. However, Sergeant Patton contends that the current suit is
17 unexhausted because Ryles now alleges a different factual basis for the assault, that Sergeant
18 Patton actually hit him with a closed fist, while en route to his cell, after having placed the spit
19 mask on his face.

20 A prison's own grievance process determines how detailed a grievance must be to satisfy
21 the PLRA exhaustion requirement. *Griffin v. Arpaio*, 557 F.3d 1117, 1120 (9th Cir. 2009).
22 Generally, "a grievance suffices if it alerts the prison to the nature of the wrong for which
23 redress is sought." *Id.* (quoting *Strong v. David*, 297 F.3d 646, 650 (7th Cir. 2002)). This rule
24 was adopted because "the primary purpose of a grievance [is] to notify the prison of a problem."
25 *Id.* Thus, a grievance "need not contain every fact necessary to prove each element of an
26 eventual legal claim." *Id.* However, the grievance must "provide enough information . . . to
27 allow prison officials to take appropriate responsive measures." *Id.* at 1121 (quoting *Johnson v.*
28 *Testman*, 380 F.3d 691, 697 (2d Cir. 2004)) (alteration in original).

1 Here, the thrust of Ryles's grievance was the need for a transfer, based on his assertion
2 that he felt threatened by the staff at High Desert State Prison with whom he regularly interacted
3 in the Administrative Segregation Unit. The only grievance related to Sergeant Patton was as
4 follows: "Sargeant [sic] Patton putt [sic] the spit mask on my face push [sic] my face against
5 the wall." The First Level appeal response found that Ryles's "appeal [did] not meet the criteria
6 as a staff complaint and will not be addressed in this appeal response." (Mot. for Summ. J.
7 (#42) Ex. B. at Ex. 2.) At the Second Level of appeal, the response stated that Ryles "failed to
8 provide any evidence supporting [his] allegations of staff misconduct therefore [his] allegation
9 was determined to be unproven." (Mot. for Summ. J. (#42) Ex. B. at Ex. 2.) Finally, the
10 Director's Level appeal decision stated that Ryles's "dissatisfaction with staff actions does not
11 rise to the level of staff misconduct." (Mot. for Summ. J. (#42) Ex. B. at Ex. 2.)

12 Ryles's Amended Complaint to this Court states that Sergeant Patton assaulted Ryles "in
13 [his] facial area and was trying to put a spit mask over [his] face." This fairly closely matches
14 Ryles's prison grievance. However, during his deposition, Ryles repeatedly testified that
15 Sergeant Patton hit him "with a closed fist" (Mot. for Summ. J. (#42) Ex. A at 89, 90, 91), *after*
16 the spit mask was in place (Mot. for Summ. J. (#42) Ex. A at 92-93). The question before the
17 Court is whether that difference (which may well be impeaching as to whether a tortious assault
18 ever occurred) means that Ryles failed to exhaust his administrative appeals as to the generic
19 claim that Patton assaulted him.

20 Although the question is close, given the liberality attending pro se prisoner pleadings,
21 this Court finds that Ryles has exhausted his administrative appeals and satisfied the
22 requirements of § 1997e(a). "Construing the claims liberally, as must be done because of
23 [Ryles's] pro se prisoner status," *Frost v. Symington*, 197 F.3d 348, 352 (9th Cir. 1999), Ryles's
24 federal suit contains the same essential elements as his prison grievance. In his grievance, Ryles
25 informed the prison that Sergeant Patton had assaulted him on June 22, 2007; Ryles makes the
26 same claim to this Court. The exact facts surrounding the alleged assault differ, a fact which the
27 Court presumes will become highly relevant on cross-examination, however, the essential
28 allegation of an unprovoked assault remains the same. Ryles provided sufficient information "to

1 notify the prison of [the] problem" and "to allow prison officials to take appropriate responsive
2 measures." *Griffin*, 557 F.3d at 1120-21. That is all that is required of him by the PLRA.

3 Therefore, it is hereby

4 **ORDERED** that Sergeant Patton's Motion for Summary Judgment (#42) is **DENIED**.

5
6 DATED this 21st day of July, 2010.

7 /s/ Richard C. Tallman
8 UNITED STATES CIRCUIT JUDGE
9 Sitting by designation
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28