

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WILLIE BOLDEN,
Plaintiff,

v.

O. ARANA,
Defendant.

Case No. [17-cv-05607-PJH](#)

**ORDER GRANTING DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT**

Re: Dkt. Nos. 20, 30

This is a civil rights case brought pro se by a state prisoner under 42 U.S.C. § 1983. His claims arise from his detention at San Quentin State Prison ("SQSP"). Defendant has filed a motion for summary judgment. Plaintiff has filed an opposition and defendant has filed a reply. For the reasons set forth below, the motion for summary judgment is granted.

Motion for Summary Judgment

Legal Standards

Summary judgment is proper where the pleadings, discovery and affidavits show that there is "no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). Material facts are those which may affect the outcome of the case. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A dispute as to a material fact is genuine if there is sufficient evidence for a reasonable jury to return a verdict for the nonmoving party. *Id.*

1 The moving party for summary judgment bears the initial burden of identifying
2 those portions of the pleadings, discovery and affidavits which demonstrate the absence
3 of a genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986);
4 *Nissan Fire & Marine Ins. Co. v. Fritz Cos.*, 210 F.3d 1099, 1102 (9th Cir. 2000). When
5 the moving party has met this burden of production, the nonmoving party must go beyond
6 the pleadings and, by its own affidavits or discovery, set forth specific facts showing that
7 there is a genuine issue for trial. *Id.* If the nonmoving party fails to produce enough
8 evidence to show a genuine issue of material fact, the moving party wins. *Id.*

9 "Within the prison context, a viable claim of First Amendment retaliation entails five
10 basic elements: (1) An assertion that a state actor took some adverse action against an
11 inmate (2) because of (3) that prisoner's protected conduct, and that such action (4)
12 chilled the inmate's exercise of his First Amendment rights, and (5) the action did not
13 reasonably advance a legitimate correctional goal." *Rhodes v. Robinson*, 408 F.3d 559,
14 567-68 (9th Cir. 2005) (footnote omitted). *Accord Pratt v. Rowland*, 65 F.3d 802, 806 (9th
15 Cir. 1995) (prisoner suing prison officials under § 1983 for retaliation must allege that he
16 was retaliated against for exercising his constitutional rights and that the retaliatory action
17 did not advance legitimate penological goals, such as preserving institutional order and
18 discipline); *Barnett v. Centoni*, 31 F.3d 813, 816 (9th Cir. 1994) (per curiam) (same).

19 **Background**

20 In this case plaintiff alleges that on December 21, 2016, a correctional officer
21 searched his cell and confiscated several items. Plaintiff stated he would file an
22 administrative grievance if the items were not returned and he alleges that the
23 correctional officer threatened him, stating, "I'll get you for that." Complaint at 7.
24 According to plaintiff, the correctional officer later learned that plaintiff was found not
25 guilty at a Rules Violation Report ("RVR") disciplinary hearing and stated, "[n]o way. I'll
26 fix that." Complaint at 8. The correctional officer, according to plaintiff, immediately
27 spoke with the hearing officer and plaintiff was found guilty of the violation. Plaintiff
28 further alleges that the correctional officer then stated, "I warned you I'd get you." *Id.*

1 Plaintiff named O. Arana, the correctional officer at issue, as the sole defendant in this
2 case. O. Arana was identified in the paperwork for the RVR as the correctional officer
3 involved. Opposition (Docket No. 23) Ex. A4-A7.

4 The court ordered service on November 2, 2017. Defendant O. Arana filed this
5 motion for summary judgment on May 29, 2018. The motion includes a declaration from
6 a correctional lieutenant who stated that the RVR paperwork contained a mistake and
7 that O. Arana was not the correctional officer involved in the incident and did not appear
8 at the RVR hearing. Motion for summary judgment ("MSJ"), Rojas Decl. ¶ 3.

9 Defendant's attorney previously informed plaintiff of this error in discovery
10 responses. Docket No. 21 at 2. However, neither defendant's attorney or correctional
11 staff at SQSP provided plaintiff with the correct identity of the correctional officer involved
12 for plaintiff to amend the complaint. Nor does it appear that a corrected RVR was
13 provided to plaintiff with the correct name. Plaintiff filed a motion to compel discovery
14 that contained many requests, including requests for the names of people involved in the
15 incident because defendant did not identify the actual correctional officer who was
16 involved. Defendant filed a motion to stay discovery pending resolution of the motion for
17 summary judgment. The court denied the motion to compel without prejudice and
18 granted the motion to stay, noting that the motion for summary judgment only concerned
19 whether defendant O. Arana was involved, and that discovery that he was not involved in
20 the incident had been provided. The court also noted that defendant had failed to provide
21 plaintiff with the name of the correct defendant.

22 In response to a recent order from the court, defendant has indicated that the
23 correct defendant involved in this incident was S. Arana. Docket No. 29. Plaintiff has
24 requested an extension to file an amended complaint. Docket No. 30.

25 ANALYSIS

26 During the relevant time, December 21, 2016, plaintiff was housed in the West
27 Block at SQSP. Complaint at 6. Defendant's primary assignment was with the
28 psychiatric inpatient infirmary. MSJ, Arana Decl. ¶ 2. Defendant worked at the infirmary

1 in December 2016. *Id.* at ¶¶ 2-4. Defendant’s work records and sign-in sheets indicate
2 he was working at the infirmary on December 21, 2016, and his supervisor confirmed that
3 Defendant was not assigned to the West Block in December 2016. MSJ, Pitt Decl. ¶¶ 3-
4 5; Cervantes Decl., Exs. A, B.

5 Plaintiff does not allege that he personally knows defendant and is aware that it
6 was in fact defendant who was involved. Plaintiff argues that defendant was identified in
7 the paperwork. Opposition at 7-8. Plaintiff notes that had he been provided with the
8 name of the correct correctional officer he would have amended the complaint.
9 Opposition at 11.

10 This motion for summary judgment concerns defendant’s identity. Defendant has
11 met his burden in demonstrating the absence of a genuine issue of material fact as to
12 whether he is the proper defendant. The work records and sign-in sheets demonstrate
13 that defendant was working in the infirmary on the day of the incident and was not in the
14 West Block where plaintiff was located, and the incident occurred. Plaintiff has failed to
15 show that there is a genuine issue for trial. Plaintiff does not allege that he knows
16 defendant and recognizes him as the correctional officer in question. Plaintiff only relies
17 on the paperwork that identified defendant. “When opposing parties tell two different
18 stories, one of which is blatantly contradicted by the record, so that no reasonable jury
19 could believe it, a court should not adopt that version of the facts for purposes of ruling on
20 a motion for summary judgment.” *Scott v. Harris*, 550 U.S. 372, 380-83 (2007). In this
21 case, plaintiff has failed to present sufficient evidence that defendant O. Arana was the
22 correctional officer involved. Defendant has now provided the identity of the appropriate
23 correctional officer involved and plaintiff indicates he wishes to amend the complaint.
24 Therefore, summary judgment is granted as to defendant O. Arana.

25 **CONCLUSION**

26 1. For the reasons set forth above, the motion for summary judgment (Docket No.
27 20) is **GRANTED** and O. Arana is **DISMISSED** from this case.

28 2. Plaintiff’s motion for an extension of time to amend the complaint to name S.

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Arana as defendant (Docket No. 30) is **GRANTED**. Plaintiff may file an amended complaint with the name of the correct defendant by **November 5, 2018**. Plaintiff's request for sanctions is **DENIED**.

IT IS SO ORDERED.

Dated: October 23, 2018



PHYLLIS J. HAMILTON
United States District Judge

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on October 23, 2018, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Willie Bolden ID: E-94314
San Quentin State Prison
1 Main Street
San Quentin, CA 94964

Dated: October 23, 2018

Susan Y. Soong
Clerk, United States District Court



Kelly Collins, Deputy Clerk to the
Honorable PHYLLIS J. HAMILTON