

APPENDIX A

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 4 2024

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

LISA MARIE BELYEW,

Plaintiff-Appellant,

v.

DUCH, Captain; et al.,

Defendants-Appellees.

No. 22-15495

D.C. No.

2:17-cv-01213-JAM-JDP

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
John A. Mendez, District Judge, Presiding

Submitted April 4, 2024**

Before: BENNETT, BADE, and COLLINS, Circuit Judges.

Prisoner Lisa Belyew appeals pro se from the district court's grant of summary judgment in favor of the Defendants due to Belyew's failure to exhaust available administrative remedies as to her 42 U.S.C. § 1983 action alleging violations of the Eighth and Fourteenth Amendments. Belyew also argues the district court abused

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

court's grant of summary judgment and reverse the district court's award of costs.³

AFFIRMED in part, and REVERSED in part.

³ The parties shall bear their own costs on appeal. Belyew's motion for 'reversal of the U.S. District Court's ruling for summary judgment,' Dkt. 10, is DENIED as moot.

APPENDIX B

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
10

11 LISA BELYEW,
12 Plaintiff,

13 v.

14 A. DUCH, et al.,
15 Defendants.
16

No. 2:17-cv-01213-JAM-JDP (PC)

ORDER

17 Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief
18 under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to
19 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

20 On January 26, 2022, the magistrate judge filed findings and recommendations herein
21 which were served on all parties and which contained notice to all parties that any objections to
22 the findings and recommendations were to be filed within fourteen days. Plaintiff has filed
23 objections to the findings and recommendations.

24 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this
25 court has conducted a de novo review of this case. Having carefully reviewed the entire file, the
26 court finds the findings and recommendations to be supported by the record and by proper
27 analysis.

28 ////

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

Accordingly, IT IS HEREBY ORDERED that:

- 1. The findings and recommendations filed January 26, 2022, are adopted in full;
- 2. Defendants' motion for summary judgment, ECF No. 53, is granted;
- 3. Plaintiff's claims against all defendants are dismissed without prejudice for failure to exhaust administrative remedies; and
- 4. The Clerk of Court be directed to close the case.

DATED: March 16, 2022

/s/ John A. Mendez

THE HONORABLE JOHN A. MENDEZ
UNITED STATES DISTRICT COURT JUDGE

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

JUDGMENT IN A CIVIL CASE

LISA MARIE BELYEW,

CASE NO: 2:17-CV-01213-JAM-JDP

v.

DUCH, ET AL.,

Decision by the Court. This action came before the Court. The issues have been tried, heard or decided by the judge as follows:

IT IS ORDERED AND ADJUDGED

**THAT JUDGMENT IS HEREBY ENTERED IN ACCORDANCE WITH THE
COURT'S ORDER FILED ON 3/16/2022**

Keith Holland
Clerk of Court

ENTERED: March 16, 2022

by: /s/ L. Mena-Sanchez
Deputy Clerk

7a

APPENDIX C

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

APR 18 2024

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

LISA MARIE BELYEW,

Plaintiff-Appellant,

v.

DUCH, Captain; HADLEY, Lieutenant;
MORELAND, Custodial Officer; CALLUS,
Custodial Officer; BAYONETTA, Custodial
Officer; ACTON, Custodial Officer;
WEBBER, Custodial Officer; JONES;
SMITH, Custodial Officer; TROTT,
Custodial Officer; TROTT, Custodial
Officer,

Defendants-Appellees.

No. 22-15495

D.C. No.

2:17-cv-01213-JAM-JDP

Eastern District of California,
Sacramento

ORDER

Before: BENNETT, BADE, and COLLINS, Circuit Judges.

The panel has unanimously voted to deny Appellant's Petition for Panel Rehearing. Dkt. No. 34. Accordingly, the Petition for Panel Rehearing is DENIED.