

No. _____

9th Circuit # 23-1506

D.C. Oregon # 6:18-cv-00103-YY

IN THE
SUPREME COURT OF THE UNITED STATES

BRADLEY WILLIAM MONICAL – PETITIONER

VS.

MARION COUNTY JAIL, ET. AL. – RESPONDENDT(S)

Motion for Extension on Petition for a WRIT OF CERTIORARI to the

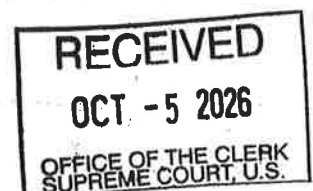
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MOTION FOR EXTENSION (11-23-2026)

Bradley William Monical

2605 State Street

Salem, Oregon, 97310



MOTION

Petitioner, Bradley W. Monical, respectfully request the court for an extension of 60 days to file his Petition for a WRIT OF CERTIORARI. The current due date is September 24, 2026 and petitioner is requesting November 23rd 2026 as the due date.

This request is supported by the following DECLARATION and facts:

I, Bradley W. Monical, declare that the following is true and correct, based upon first hand knowledge and made under the penalty of perjury.

- 1) I am the pro se indigent petitioner in the above case and only allowed access to the states law library two days a week for 2-hour periods.
- 2) This case was denied petition for panel rehearing in the 9th circuit on June 25 2026, making the deadline to file for Petition for Certiorari, September 24th 2026.
- 3) I am currently scheduled to file petition for panel rehearing in 9th Circuit court of appeals # 25-229 – Monical v. Rochester – September 14th, 2026.
- 4) I am currently scheduled for post-conviction case filing and depositions, for case, Monical v. Kelly 20CV37848, through September 21st 2026.
- 5) I am currently scheduled in the prison systems law library for opening brief filings in an appeal in case, Monical v. City of Salem – Court of appeals # A189568 – Briefings due 10/13/2026.

- 6) Due to these existing court proceedings and deadlines for these other cases, and the fact that I cannot gain any more access to resource in which to file the Petition for Certiorari by September 24th 2026. I am asking for this extension
- 7) I believe the issues raised in the petition are worthy of the court attention as they effect all the states with regards to the Prison litigation reform acts, PLRA and the resources the court expend on this issue.

Executed this 2nd day of September 2026.

Respectfully submitted



Bradley W. Monical #7803214

2605 State Street

Salem, Or, 97310

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Bradley William Monical-- PETITIONER

vs.

Marion County Jail, et. al. -- RESPONDENT(S)

PROOF OF SERVICE

I, Bradley W. Monical, do swear or declare that on this date, September 2, 2026, I have enclosed MOTION FOR EXTENSION TO FILE PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Marion County Legal Counsel
555 Court Street
P.O. Box 14500
Salem, Oregon, 97309

Vickki M. Smith OSB #15110
Chinn Smith Winters LLP
4248 Galewood St.
Lake Oswego OR 97035-2405
(For Keefe Commissary Network)

Supreme Court of the United States
1 First Street NE
Washington, DC 20543

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

Executed on September 2nd 2026.


(Signature)

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAY 14 2026

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

BRADLEY W. MONICAL,

Plaintiff - Appellant,

v.

MARION COUNTY JAIL; JASON MYERS; MARION COUNTY JAIL COMMANDER; CINDY GAGE; STACEY HEADRICK; DEPUTY DUNNBARR; DEPUTY FRIEZE; JOHN DOE 1; DEPUTY JOHN DOE 2; COMMANDER TAD LARSON; DEPUTY STRAUS; DEPUTY MCGOWAN; DEPUTY KNOSPE; KEEFE COMMISSARY NETWORK LLC; COUNTY OF MARION; JACOB RAMSY,

Defendants - Appellees.

No. 23-1506

D.C. No.

6:18-cv-00103-YY

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon

Michael H. Simon, District Judge, Presiding

Submitted May 14, 2026**

* 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).

Before: O'SCANNLAIN, SILVERMAN, and N.R. SMITH, Circuit Judges.

Bradley Monical, an Oregon state inmate, appeals from the district court's judgment in his prisoner civil rights action alleging claims against Marion County Jail and Keefe Commissary. The district court granted summary judgment on the First Amendment claims and dismissed the remaining claims pursuant to the Prison Litigation Reform Act (PLRA) for failure to exhaust available remedies. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review the exhaustion factual findings for clear error and legal rulings and summary judgment de novo. *Albino v. Baca*, 747 F.3d 1162, 1171, 1173 (9th Cir. 2014).

The district court did not abuse its discretion by denying plaintiff's motion to compel answers to his request for admissions, which were served less than 30 days prior to the close of discovery. *See* D. Or. Local Rule Civ. P. 16-2(e)(4) ("The Court will not require a response to a discovery request that is made with insufficient time for a party to respond before the completion of discovery date."); Fed. R. Civ. P. 36(a)(3) (requiring a response within thirty days of service). The district court acts within its discretion when it denies a motion for failure to comply with local rules. *Tri-Valley CAREs v. U.S. Dept. of Energy*, 671 F.3d 1113, 1131 (9th Cir. 2012). In any event, plaintiff did not establish that he suffered actual and substantial prejudice from the denial of discovery. *See Hallett v. Morgan*, 296 F.3d 732, 751 (9th Cir. 2002) (setting forth the standard).

The district court did not abuse its discretion by denying plaintiff's motion for sanctions because defendants complied with discovery rules. Federal Rule of Civil Procedure 26(a)(1)(B)(iv) specifically exempts proceedings "brought without an attorney by a person in the custody of . . . a state" from Rule 26 initial disclosures. Federal Rule of Civil Procedure 26(e), in turn, only requires a supplement if the party has made an initial disclosure or responded to a discovery request.

Contrary to plaintiff's contention, *Jackson v. Fong*, 870 F.3d 928 (9th Cir. 2017), does not apply to this case and exempt plaintiff from complying with the PLRA. Unlike Jackson, who was released from all custody and no longer a prisoner when he filed the operative complaint, *id.* at 932, 937, plaintiff was transferred from the jail to prison and remained in custody. Plaintiff is still a prisoner as defined in the PLRA, 42 U.S.C. § 1997e(h).

The district court properly resolved the disputed fact questions, which were only relevant to exhaustion of remedies, by conducting an evidentiary hearing. *See Albino*, 747 F.3d at 1170-71 ("If a motion for summary judgment [regarding exhaustion under the PLRA] is denied, disputed factual questions relevant to exhaustion should be decided by the judge, in the same manner a judge rather than a jury decides disputed factual questions relevant to jurisdiction and venue."); *Perttu v. Richards*, 605 U.S. 460, 479 (2025) (requiring a jury trial if the fact

“issue is intertwined with the merits of a claim protected by the Seventh Amendment”).

The district court did not err in holding that the grievance procedure was available for the dismissed claims. The district court’s adverse credibility finding is supported by the record, including the inconsistencies between testimony and documentary evidence noted by the court. We defer to adverse credibility findings premised on conflicting evidence. *Beech Aircraft Corp. v. United States*, 51 F.3d 834, 838 (9th Cir. 1995).

Plaintiff argues that jail administrative remedies were unavailable because the jail grievance process terminated as soon as he was transferred back to prison. This court has held that exhaustion may be excused if the inmate “took reasonable and appropriate steps to exhaust [his claim] and was precluded from exhausting, not through his own fault.” *Nunez v. Duncan*, 591 F.3d 1217, 1224 (9th Cir. 2010). The district court properly applied this rule to the First Amendment claim challenging the order denying plaintiff contact with his children. Plaintiff had filed a grievance for that claim, and the pending grievance was terminated because plaintiff was transferred back to prison. Plaintiff’s other claims, however, cannot be excused for this reason because plaintiff did not file an initial grievance, *i.e.*, take “reasonable and appropriate steps” to exhaust. *Id.*

Summary judgment was proper on the First Amendment claim challenging

the jail's enforcement of a Department of Corrections' order prohibiting plaintiff from having contact with his children. Defendants established that they had legitimate safety reasons for following the order issued by the prison where plaintiff was serving his sentence, and that order prohibited the contact with the children. *See O'Lone v. Estate of Shabazz*, 482 U.S. 342, 349-52 (1987) (setting forth the standard).

The district court properly granted summary judgment on the First Amendment claim challenging the cost of non-legal envelopes with pre-paid postage sold in the commissary. Plaintiff does not have a First Amendment right to pay any specific price for non-legal envelopes and postage or to purchase the items from a commissary at any particular price. *Cf. Johnson v. State of Cal.*, 207 F.3d 650, 656 (9th Cir. 2000) (rejecting a First Amendment claim regarding charges for telephone access and concluding that prisoners are not entitled to "a specific rates for their telephone calls").

The district court did not abuse its discretion by denying leave to file a fourth amended complaint. Amendment would be futile because plaintiff is no longer housed in jail, and he cannot file the grievances to exhaust his unexhausted claims after transfer from the jail. *See Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1041 (9th Cir. 2011) ("a district court may dismiss without leave where a plaintiff's proposed amendments would fail to cure the pleading

deficiencies and amendment would be futile”).

AFFIRMED.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUN 25 2026

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

BRADLEY W. MONICAL,

Plaintiff - Appellant,

v.

MARION COUNTY JAIL; et al.,

Defendants - Appellees.

No. 23-1506

D.C. No.

6:18-cv-00103-YY

District of Oregon,

Eugene

ORDER

Before: O'SCANNLAIN, SILVERMAN, N.R. SMITH, Circuit Judges.

Appellant's Petition for Panel Rehearing (Dkt. Entry No. 48) is DENIED.