

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Ward v. Lovell

Ward · No. 3:24-cv-1400-RSH-MSB · Decided September 18, 2025

SUMMARY

The United States District Court for the Southern District of California construed Wayne Ward’s letter as a First Amended Complaint and dismissed it without prejudice for failure to comply with Federal Rule of Civil Procedure 8 and failure to state a claim under 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1). The court granted Ward 60 days to file a complete Second Amended Complaint addressing his Eighth Amendment excessive-force and inadequate-medical-care allegations.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Robert S. Huie
JURISDICTION	United States District Court for the Southern District of California
DECIDED	September 18, 2025
DOCKET	3:24-cv-1400-RSH-MSB
DISPOSITION	dismissed
PROCEDURAL POSTURE	Screening order in a pro se prisoner civil-rights action brought under 42 U.S.C. § 1983. The court construed Plaintiff's letter as a first amended complaint and dismissed it without prejudice, granting leave to amend.
STANDARD OF REVIEW	The court applied the Federal Rule of Civil Procedure 12(b)(6) plausibility standard during mandatory screening under 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b).
PRECEDENTIAL VALUE	Unknown; district-court screening order with no reporter citation
PARTIES	Wayne Ward v. J. Lovell, E. Guevara, C. Martinez, R. Allen, J. Magnar

TOPICS

- prisoners rights
- section 1983
- motions to dismiss
- civil procedure
- cruel and unusual punishment

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the court properly construed Ward's letter as a first amended complaint.
2. Whether the first amended complaint complied with Federal Rule of Civil Procedure 8.
3. Whether the first amended complaint plausibly stated Eighth Amendment excessive-force and inadequate-medical-care claims under 42 U.S.C. § 1983.
4. Whether Ward should receive leave to amend.

HOLDINGS

1. A pro se letter filed after leave to amend may be construed as an amended complaint when it is the only document filed after leave to amend was granted.
2. The first amended complaint failed to comply with Rule 8 because it contained conclusory assertions and insufficient factual detail to give defendants fair notice of the claims and the grounds on which they rested.
3. The court dismissed the first amended complaint under 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1) for failure to comply with Rule 8 and failure to state a claim.
4. A pro se plaintiff must generally be given leave to amend unless it is absolutely clear that the pleading's deficiencies cannot be cured by amendment.

KEY QUOTATIONS

“Thus, because the FAC is not complete in itself, and contains only conclusory assertions “devoid of further factual enhancement,” it is insufficient to comply with Rule 8.” (at 2)

“Therefore, the Court DISMISSES the First Amended Complaint without prejudice and with leave to amend, for failure to comply with Rule 8 and failure to state a claim.” (at 3)

“A district court should not dismiss a pro se complaint without leave to amend unless ‘it is absolutely clear that the deficiencies of the complaint could not be cured by amendment.’” (at 5)

FACTUAL BACKGROUND

Ward, a state inmate, alleged that on January 15, 2023, Officer Lovell used excessive force by slapping him into a bench while he was complying with Lovell and Officer Guevara. Ward alleged that he hit his head and shoulder and continued to experience pain. He further alleged that prison employees Martinez, Allen, and Magnar refused him medical care by telling him he would receive care later. The amended pleading did not provide sufficient details about the incident, injuries, or each defendant's conduct.

PROCEDURAL HISTORY

Ward initially alleged Eighth Amendment excessive-force and inadequate-medical-care claims. The court granted in forma pauperis status and dismissed the original complaint without prejudice for failure to state a

claim, granting leave to amend. Ward then filed a two-page letter, which the court construed as his first amended complaint; the court dismissed that complaint without prejudice and granted one final opportunity to file a second amended complaint.

DISPOSITION

dismissed

CASES CITED

- Hebbe v. Pliler, 627 F.3d 338, 342 (9th Cir. 2010)
- Teal v. Vargo, 9 F. App'x 718, 719 (9th Cir. 2001)
- Watison v. Carter, 668 F.3d 1108, 1112 (9th Cir. 2012)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007)
- Ramirez v. County of San Bernardino, 806 F.3d 1002, 1008 (9th Cir. 2015)
- Ivey v. Board of Regents of University of Alaska, 673 F.2d 266, 268 (9th Cir. 1982)
- Tsao v. Desert Palace, Inc., 698 F.3d 1128, 1138 (9th Cir. 2012)
- Rizzo v. Goode, 423 U.S. 362, 371-72, 377 (1976)
- Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978)
- Hudson v. McMillian, 503 U.S. 1, 7 (1992)
- Wilkins v. Gaddy, 559 U.S. 34, 40 (2010)
- Whitley v. Albers, 475 U.S. 312, 320-21 (1986)
- Wilson v. Seiter, 501 U.S. 294, 302 (1991)
- Jett v. Penner, 439 F.3d 1091, 1096 (9th Cir. 2006)
- Estelle v. Gamble, 429 U.S. 97, 104, 106 (1976)
- Toguchi v. Chung, 391 F.3d 1051, 1057, 1060 (9th Cir. 2004)
- Rosati v. Igbinoso, 791 F.3d 1037, 1039 (9th Cir. 2015)
- Akhtar v. Mesa, 698 F.3d 1202, 1212 (9th Cir. 2012)
- S.D. Cal. CivLR 15.1
- Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc., 896 F.2d 1542, 1546 (9th Cir. 1990)
- Lacey v. Maricopa County, 693 F.3d 896, 928 (9th Cir. 2012)
- Lira v. Herrera, 427 F.3d 1164, 1169 (9th Cir. 2005)

OPINION

Ward v. Lovell

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 WAYNE WARD, Case No.: 3:24-cv-1400-RSH-MSB

CDCR #BK-3300,

12 ORDER (1) CONSTRUING ECF NO. Plaintiff,

13 8 AS A FIRST AMENDED

vs. COMPLAINT AND

14

15 (2) DISMISSING FIRST AMENDED

J. LOVELL, E. GUEVARA, C. COMPLAINT WITHOUT

16

MARTINEZ, R. ALLEN, J. MAGNAR, PREJUDICE FOR FAILURE TO

17 Defendants. COMPLY WITH FED. R. CIV. P. 8

AND FAILURE TO STATE A

18 CLAIM PURSUANT TO 28 U.S.C. 19 §§ 1915(e)(2)(B)(ii) & 1915A(b)(1) 20

I. INTRODUCTION

21 Plaintiff Wayne Ward (“Plaintiff” or “Ward”) is a state inmate proceeding pro se 22 with a civil rights action pursuant to 42 U.S.C. § 1983. In his original complaint, Ward 23 alleged Defendants violated his Eighth Amendment rights by using excessive force against 24 him and failing to provide him with medical care after he was injured. See ECF No. 1. On 25 May 7, 2025, the Court granted Plaintiff’s request to proceed in forma pauperis and 26 dismissed the original complaint without prejudice for failure to state a claim. See ECF No. 27

7. The Court granted Ward leave to file an amended complaint by June 21, 2025. Id. at 7.

28 1 On June 20, 2025, Ward filed a 2-page “letter” (ECF No. 8), which this Court now 2 liberally CONSTRUES as a First Amended Complaint (“FAC”). See *Hebbe v. Pliler*, 627 3 F.3d 338, 342 (9th Cir. 2010) (stating courts must “construe pro se filings liberally”); see 4 also *Teal v. Vargo*, 9 F. App’x 718, 719 (9th Cir. 2001) (concluding district court 5 reasonably construed document entitled “narrative summary” as an amended complaint 6 when it was the only document filed by pro se plaintiff after leave to amend was granted). 7 For the reasons discussed below, the Court dismisses the FAC without prejudice and 8 with leave to amend.

9 II. SCREENING PURSUANT TO 28 U.S.C. §§ 1915(e)(2)(B) & 1915A(b)

10 A. Legal Standard 11 Plaintiff is proceeding in forma pauperis and as such, the Court must screen the FAC 12 and dismiss it to the extent that it is frivolous, malicious, fails to state a claim, or seeks 13 damages from defendants who are immune. See 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b). 14 “The standard for determining whether Plaintiff has failed to state a claim upon which relief 15 can be granted under § 1915(e)(2)(B)(ii) is the same as the Federal Rule of Civil Procedure 16 12(b)(6) standard for failure to state a claim.” *Watison v. Carter*, 668 F.3d 1108, 1112 (9th

17 Cir. 2012). Rule 12(b)(6) requires that a complaint “contain sufficient factual matter . . . to

18 state a claim to relief that is plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal quotation marks omitted). While detailed factual allegations are not required, “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice” to state a claim. *Id.* The “mere possibility of misconduct” or “unadorned, the defendant-unlawfully-harmed-me accusation[s]” fall short of meeting this plausibility standard. *Id.*

B. Plaintiff’s Allegations

The factual allegations in the FAC are sparse. Ward states that on January 15, 2023, Officer Lovell “use[d] excessive force on [him].” ECF No. 8 at 1. He alleges he was “complying with [Lovell] and Officer Guevara when [he] was slapped into a bench in the 1 dayroom.” *Id.* When Ward fell onto the bench, he hit his head and shoulder. He still suffers from pain as a result. *Id.* Ward further states that “prison employees C. Martinez, R. Allen and J. Magnar refused me medical care by saying I would receive care later.” *Id.*

C. Discussion

1. Rule 8

6 Federal Rule of Civil Procedure 8(a) requires a complaint provide “a short and plain statement of the claim showing that the pleader is entitled to relief,” sufficient to “give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (citation omitted). “Factual allegations must be enough to raise a right to relief above the speculative level.” *Id.* A pleading that merely alleges “naked assertion[s] devoid of further factual enhancement” is insufficient to comply with Rule 8. *Iqbal*, 556 U.S. at 678 (citation and internal quotation marks omitted).

Here, the FAC contains little more than conclusory statements, with very few specific facts. While not entirely clear, the FAC appears to be an attempt by Ward to address a deficiency discussed in this Court’s May 7, 2025 screening order, which noted that Ward had failed to tie any specific conduct to any named defendant. ECF No. 7 at 4–5. In his FAC, Ward makes clear he is suing defendants Lovell and Guevara for excessive force and defendants Martinez, Allen and Magar for failure to provide him with medical care. ECF No. 8 at 1. But beyond that, the FAC is nearly devoid of specific facts regarding the details of the alleged incident(s) and/or Ward’s injuries. While Ward’s original complaint contained some of these specifics, an amended complaint replaces any prior complaint, which is “treated thereafter as non-existent.” See *Ramirez v. Cnty. of San Bernardino*, 806 F.3d 1002, 1008 (9th Cir. 2015) (internal citations omitted). Thus, because the FAC is not complete in itself, and contains only conclusory assertions “devoid of further factual enhancement,” it is insufficient to comply with Rule 8. *Iqbal*, 556 U.S. at 678 (citation and internal quotation marks omitted); see also *Ivey v. Bd. of Regents of Univ. of Alaska*, 673 F.2d 266, 268 (9th Cir. 1982) (stating that “liberal interpretation of a civil rights complaint may not supply essential elements of the claim that were not initially pled”).

Therefore, the Court **DISMISSES** the First Amended Complaint without prejudice and with leave to amend, for failure to comply with Rule 8 and failure to state a claim. See Fed. R. Civ. P. 8(a); see also U.S.C. §§ 1915(e)(2)(B)(ii) & 1915A(b)(1).

2. Legal Standards

Should Plaintiff seek to amend, the Court again provides the following legal standards for Eighth Amendment excessive force and medical care claims raised pursuant to 42

U.S.C. § 1983: 13 a. 42 U.S.C. § 1983 14 Generally, to state a claim under § 1983, a plaintiff must plausibly allege “both (1) 15 deprivation of a right secured by the Constitution and laws of the United States, and (2) 16 that the deprivation was committed by a person acting under color of state law.” *Tsao v. 17 Desert Palace, Inc.*, 698 F.3d 1128, 1138 (9th Cir. 2012). In doing so, a plaintiff must 18 allege he suffered a specific injury as a result of a defendant’s conduct and show a link 19 between the injury and that conduct. See *Rizzo v. Goode*, 423 U.S. 362, 371–72, 377 (1976). 20 Without an affirmative link or connection between a defendant’s actions and the claimed 21 deprivation, there can be no § 1983 liability. *Johnson v. Duffy*, 588 F.2d 740, 743 (9th Cir. 22 1978) (“A person ‘subjects’ another to the deprivation of a constitutional right, within the 23 meaning of section 1983, if he does an affirmative act, participates in another’s affirmative 24 acts, or omits to perform an act which he is legally required to do that causes the deprivation 25 of which complaint is made.”). 26 b. Excessive Force 27 For § 1983 claims alleging excessive force under the Eighth Amendment, the “core 28 judicial inquiry” is “whether force was applied in a good-faith effort to maintain or restore 1 discipline, or maliciously and sadistically to cause harm.” *Hudson v. McMillian*, 503 U.S. 2 1, 7 (1992); *Wilkins v. Gaddy*, 559 U.S. 34, 40 (2010). To that end, federal courts look to 3 factors such as: (1) the need for application of force; (2) the relationship between the need 4 and the amount of force used; (3) the extent of the injury inflicted; (4) the threat “reasonably 5 perceived by the responsible officials”; and (5) “any efforts made to temper the severity of 6 a forceful response.” *Hudson*, 503 U.S. at 7 (quoting *Whitley v. Albers*, 475 U.S. 312, 321 7 (1986)). Where prison officials “act in response to a prison disturbance, their actions are 8 necessarily taken ‘in haste, under pressure,’ and balanced against ‘competing institutional 9 concerns for safety of prison staff or other inmates.’” *Wilson v. Seiter*, 501 U.S. 294, 302 10 (1991) (quoting *Whitley*, 475 U.S. at 320). 11 c. Inadequate Medical Care 12 To state an Eighth Amendment claim based on inadequate medical care, a prisoner 13 must plausibly allege a “serious medical need,” and that the defendant was “deliberately 14 indifferent” to that need. *Jett v. Penner*, 439 F.3d 1091, 1096 (9th Cir. 2006) (citing *Estelle 15 v. Gamble*, 429 U.S. 97, 106 (1976)). The test for deliberate indifference has objective and 16 subjective components. To satisfy the objective prong, the plaintiff must show a “serious 17 medical need, by establishing that failure to treat a prisoner’s condition could result in 18 further significant injury or the ‘unnecessary and wanton infliction of pain.’” *Jett*, 439 F.3d 19 at 1096 (quoting *Estelle*, 429 U.S. at 104). To satisfy the subjective prong, the plaintiff 20 must allege the defendant’s response to the need was deliberately indifferent by showing 21 “(a) a purposeful act or failure to respond to a prisoner’s pain or possible medical need and 22 (b) harm cause by the indifference.” *Id.* Put another way, a plaintiff must show the official 23 knew of and disregarded “excessive risk to inmate health and safety.” *Toguchi v. Chung*, 24 391 F.3d 1051, 1057 (9th Cir. 2004) (citation omitted). The official “must not only be 25 aware of facts from which the inference could be drawn that a substantial risk of serious 26 harm exists,” but that official “must also draw the inference.” *Id.* (citation and internal 27 quotation marks omitted). “Deliberate indifference is a high legal standard.” *Id.* at

1060. A 28 1 showing of negligence or inadvertence is insufficient to establish an Eighth Amendment 2 violation. Jett, 439 F.3d at 1096. 3 D. Leave to Amend 4 Given Plaintiff's pro se status, the GRANTS him one final opportunity to amend, 5 as set forth below. See Rosati v. Igbinoso, 791 F.3d 1037, 1039 (9th Cir. 2015) ("A district 6 court should not dismiss a pro se complaint without leave to amend unless 'it is absolutely 7 clear that the deficiencies of the complaint could not be cured by amendment.'" (quoting 8 Akhtar v. Mesa, 698 F.3d 1202, 1212 (9th Cir. 2012))).

9 III. CONCLUSION AND ORDER

10 Accordingly, the Court: 11 1. CONSTRUES Plaintiff's "Letter" (ECF No. 8) as a First Amended 12 Complaint. 13 2. DISMISSES the First Amended Complaint in its entirety for failure to 14 comply with Federal Rule of Civil Procedure 8 and failure to state a claim pursuant to 28 15 U.S.C. §§ 1915(e)(2)(B)(ii) & 1915A(b)(1). 16 3. GRANTS Plaintiff sixty (60) days leave from the date of this Order in which 17 to file a Second Amended Complaint which cures the pleading deficiencies discussed 18 above. Plaintiff's Second Amended Complaint must be complete by itself. See S.D. 19 Cal. CivLR 15.1; Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc., 896 F.2d 1542, 20 1546 (9th Cir. 1989) ("[A]n amended pleading supersedes the original."); Lacey v. 21 Maricopa Cnty., 693 F.3d 896, 928 (9th Cir. 2012) (noting claims dismissed with leave to 22 amend which are not re-alleged in an amended pleading may be considered "waived if not 23 replied."). 24 If Plaintiff fails to timely file a Second Amended Complaint, the Court will enter a 25 final Order dismissing this civil action based both on failure to state a claim upon which 26 relief can be granted pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and § 1915A(b)(1), and 27 failure to prosecute in compliance with a court order requiring amendment. See Lira v. 28 Herrera, 427 F.3d 1164, 1169 (9th Cir. 2005) ("If a plaintiff does not take advantage of | opportunity to fix his complaint, a district court may convert the dismissal of the 2 complaint into dismissal of the entire action."). 3 3. DIRECTS the Clerk of Court to include with this Order a blank 42 U.S.C. 4 || § 1983 Civil Rights Complaint form for Plaintiff's convenience. 5 IT IS SO ORDERED. ° febut ¢ Hows 7 Dated: September 18, 2025 8 Hon. Robert S. Huie 9 United States District Judge 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 7 oe □□