

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Spearman v. La Superior

No. 2:25-cv-0237-JDP (P), Findings and Recommendations (E.D. Cal. Apr. 15, 2025) · No. 2:25-cv-0237-JDP (P) · Decided April 16, 2025

SUMMARY

The court screens a former prisoner’s 42 U.S.C. § 1983 complaint alleging that a La Superior supermarket employee assaulted him. The magistrate judge concludes that the defendants are not alleged to be state actors, that the plaintiff is subject to the three-strikes provision of 28 U.S.C. § 1915(g), and recommends dismissal without leave to amend and denial of in forma pauperis status.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jeremy D. Peterson
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	April 16, 2025
DOCKET	2:25-cv-0237-JDP (P)
DISPOSITION	other
PROCEDURAL POSTURE	A former prisoner filed a pro se 42 U.S.C. § 1983 complaint and applied to proceed in forma pauperis. The magistrate judge screened the complaint and issued findings and recommendations that the action be dismissed without leave to amend and that the in forma pauperis application be denied.
STANDARD OF REVIEW	The complaint was reviewed under the screening requirements applicable to in forma pauperis actions and the Rule 8(a)(2) plausibility standard, accepting well-pleaded allegations while disregarding conclusory legal assertions. A pro se complaint was construed liberally, but the court could not supply essential elements that were not pleaded.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

[section 1983](#) [prisoners rights](#) [pleadings](#) [civil procedure](#)

PRACTICE AREAS

civil rights

prisoner litigation

federal civil procedure

QUESTIONS PRESENTED

1. Whether the complaint stated a cognizable claim under 42 U.S.C. § 1983 when it alleged assault by a private supermarket employee without alleging state action.
2. Whether plaintiff could proceed in forma pauperis despite being a three-striker under 28 U.S.C. § 1915(g).
3. Whether the complaint should be dismissed without leave to amend.

HOLDINGS

1. The complaint failed to state a cognizable § 1983 claim because it did not allege that La Superior or its employee acted under color of state law.
2. Plaintiff could proceed in forma pauperis only if he showed that he was in imminent physical danger, and the complaint did not make that showing because its allegations were non-cognizable.
3. Dismissal without leave to amend was appropriate because plaintiff could not state a cognizable § 1983 claim without changing the fundamental nature of his allegations.

KEY QUOTATIONS

“[T]he under-color-of-state-law element of § 1983 excludes from its reach merely private conduct, no matter how discriminatory or wrongful” (at 2)

“A complaint must contain a short and plain statement that plaintiff is entitled to relief,” (at 1)

FACTUAL BACKGROUND

Plaintiff, a former prisoner, alleged that an employee of the La Superior supermarket physically assaulted him. He did not allege that the supermarket or its employee was a state actor. The court also found that plaintiff had at least three prior actions dismissed for failure to state a claim and therefore qualified as a three-striker under § 1915(g).

PROCEDURAL HISTORY

Plaintiff alleged that an employee of the La Superior supermarket assaulted him. On screening, the court concluded that the complaint did not allege state action and therefore failed to state a cognizable § 1983 claim. The court also determined that plaintiff was a three-striker under 28 U.S.C. § 1915(g) and had not shown imminent danger. The magistrate judge recommended dismissal without leave to amend and denial of in forma pauperis status, subject to objections and review by an assigned district judge.

DISPOSITION

other

CASES CITED

- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678-79 (2009)
- Kobold v. Good Samaritan Reg'l Med. Ctr., 832 F.3d 1024, 1038 (9th Cir. 2016)
- Nagrampa v. MailCoups, Inc., 469 F.3d 1257, 1264 n.2 (9th Cir. 2006) (en banc)
- Haines v. Kerner, 404 U.S. 519, 520 (1972) (per curiam)
- Hayes v. Idaho Corr. Ctr., 849 F.3d 1204, 1208 (9th Cir. 2017)
- Bruns v. Nat'l Credit Union Admin., 122 F.3d 1251, 1257 (9th Cir. 1997)
- Ivey v. Bd. of Regents, 673 F.2d 266, 268 (9th Cir. 1982)
- Am. Mfrs. Mut. Ins. Co. v. Sullivan, 526 U.S. 40, 50 (1999)
- Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998)
- Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991)