

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
VIRGINIA, ROANOKE DIVISION

Mark L. Tatum v. Lt. Jackie Bird and Sgt. Justin Louis

Tatum · No. 7:26-cv-00437 · Decided June 22, 2026

SUMMARY

The United States District Court for the Western District of Virginia granted Mark L. Tatum leave to proceed in forma pauperis but dismissed his 42 U.S.C. § 1983 action without prejudice under 28 U.S.C. § 1915(e)(2)(B). The court held that the complaint failed to state a plausible claim because it lacked allegations against one defendant and did not identify a constitutional or federal-law violation arising from a medication co-payment charged during Tatum’s incarceration.

CASE DETAILS

COURT	United States District Court for the Western District of Virginia, Roanoke Division
JURISDICTION	United States District Court for the Western District of Virginia, Roanoke Division
DECIDED	June 22, 2026
DOCKET	7:26-cv-00437
DISPOSITION	dismissed
PROCEDURAL POSTURE	A pro se incarcerated plaintiff filed a 42 U.S.C. § 1983 action and applied to proceed in forma pauperis. The district court granted in forma pauperis status and sua sponte dismissed the complaint without prejudice under 28 U.S.C. § 1915(e)(2)(B).
STANDARD OF REVIEW	For an in forma pauperis complaint, the court must dismiss at any time if the complaint is frivolous or fails to state a claim under 28 U.S.C. § 1915(e)(2)(B). The failure-to-state-a-claim standard is the same as under Federal Rule of Civil Procedure 12(b)(6): well-pleaded factual allegations are accepted as true and viewed in the plaintiff's favor, but the complaint must contain sufficient factual matter to state a plausible claim for relief.
PRECEDENTIAL VALUE	unpublished district court memorandum opinion
PARTIES	Mark L. Tatum v. Lt. Jackie Bird, Sgt. Justin Louis

TOPICS

section 1983

prisoners rights

motions to dismiss

civil procedure

health law

PRACTICE AREAS

civil rights

prisoner litigation

federal civil procedure

health law

QUESTIONS PRESENTED

1. Whether the complaint stated a plausible claim under 42 U.S.C. § 1983 against Sgt. Justin Louis when it contained no allegations concerning his personal involvement.
2. Whether the complaint stated a plausible § 1983 claim against Lt. Jackie Bird based on advising Tatum that he would be charged for medication.
3. Whether the complaint alleged facts supporting a deliberate-indifference claim based on denial of medical care.

HOLDINGS

1. The complaint failed to state a plausible claim against Louis because it contained no allegations regarding his personal actions or inactions and named him only in the caption.
2. The complaint failed to state a viable § 1983 claim against Bird because Tatum did not identify a constitutional or federal-law right violated by the medication charge, and the alleged advice correctly reflected that incarcerated individuals may be charged for medication.
3. The complaint failed to state a deliberate-indifference claim because Tatum did not allege that medication was denied, that he was unable to pay, or that the medication concerned a serious medical need.
4. The court was required to dismiss the complaint without prejudice because it was frivolous and failed to state a claim upon which relief could be granted.

KEY QUOTATIONS

“To survive a motion to dismiss for failure to state a claim, “a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” (at 1)

“Liability under § 1983 is personal, meaning that a complaint must specify the individual actions or inactions of each named Defendant that give rise to relief.” (at 2)

“To state a claim under § 1983, a plaintiff must allege the violation of a right secured by the Constitution and laws of the United States.” (at 2)

FACTUAL BACKGROUND

Tatum, who was incarcerated at Patrick County Jail, alleged that Lt. Jackie Bird told him he would be charged a copayment for medication that had previously been provided to him without charge under Medicaid. He did not allege that Sgt. Justin Louis took any action concerning the medication. He also did not allege that he was denied

medication, that the medication concerned a serious medical need, or that any constitutional or federal-law right was violated.

PROCEDURAL HISTORY

Tatum alleged that Patrick County Jail charged him a medication copayment for medication that had previously been provided without charge under Medicaid. He filed the action against Lt. Jackie Bird and Sgt. Justin Louis. The court granted his application to proceed without prepayment of fees or costs, found the complaint frivolous and insufficient to state a claim, dismissed it without prejudice, directed the Clerk to close the case, and ordered service of the opinion on Tatum.

DISPOSITION

dismissed

CASES CITED

- Eriline Co. S.A. v. Johnson, 440 F.3d 648, 656-57 (4th Cir. 2006)
- Neitzke v. Williams, 490 U.S. 319, 327 (1989)
- De'Lonta v. Angelone, 330 F.3d 630, 633 (4th Cir. 2003)
- Philips v. Pitt County Memorial Hospital, 572 F.3d 176, 180 (4th Cir. 2009)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007)
- Estelle v. Gamble, 429 U.S. 97, 106 (1976)
- Trulock v. Freeh, 275 F.3d 391, 402 (4th Cir. 2001)
- Harris v. City of Virginia Beach, 11 F. App'x 212, 214-15, 217 (4th Cir. 2001)
- West v. Atkins, 487 U.S. 42, 48 (1988)
- Davis v. Shompt, No. 8:25-cv-02550, 2025 WL 3164210, at *10 (D.S.C. June 20, 2025)
- Davis v. Long, No. 8:25-cv-02550, 2025 WL 3159044 (D.S.C. Nov. 12, 2025)
- Ohio Department of Medicaid v. Price, 864 F.3d 469, 472-73 (6th Cir. 2017)
- Reynolds v. Wagner, 128 F.3d 166, 174 (3d Cir. 1997)

OPINION

CLERKS OFFICE US DISTRICT CO AT ROANOKE, VA FILED IN THE UNITED STATES DISTRICT COURT me ee POR THE WESTERN DISTRICT OF VIRGINIA ev: /s/M. Poff ROANOKE DIVISION DEPUTY CLERK Mark L. Tatum,)) Plaintiff,)) Vv.) Civil Action No. 7:26-cv-00437) Lt. Jackie Bird)) and)) Set. Justin Louis,)) Defendants.) MEMORANDUM OPINION AND ORDER Plaintiff Mark L. Tatum, an individual incarcerated in Virginia proceeding pro se, filed this civil rights action under 42 U.S.C. § 1983.

Tatum asserts a claim arising from the Patrick County Jail charging him a co-pay for medication that was provided to him at no charge under Medicaid prior to his detention. (Dkt. 1 at 2.) He asks that the court “look into” this matter for him. (Id. at 3.) Tatum submitted the financial documentation and consent to collection of fees form required to support his application to proceed *in forma pauperis*.

(See Dkts. 2, 4.) While the court finds that Tatum qualifies to proceed without prepayment of fees or costs, it also finds that the complaint is frivolous and fails to state a claim upon which relief could be granted.

Accordingly, the court grants the *in forma pauperis* application but dismisses this action without prejudice *sua sponte* under 28 U.S.C. § 1915(e)(2)(B). I. Standard of Review The court must dismiss a complaint filed *in forma pauperis* “at any time” the court determines that the complaint “fails to state a claim on which relief may be granted” or that it is “frivolous.” 28 U.S.C. § 1915(e)(2)(B)(i) and (ii); *Eriline Co. S.A. v. Johnson*, 440 F.3d 648, 656—57 (4th Cir.

2006). This statute “is designed largely to discourage the filing of, and waste of judicial and private resources upon, baseless lawsuits that paying litigants generally do not initiate because of the costs of bringing suit.” *Nezke v. Williams*, 490 U.S. 319, 327 (1989).

The standards for reviewing a complaint for dismissal under § 1915(e)(2)(B)(i) are the same as those which apply when a defendant moves for dismissal under Federal Rule of Civil Procedure 12(b)(6). *De’Lonta v. Angelone*, 330 F.3d 630, 633 (4th Cir. 2003).

Thus, in reviewing a complaint under this statute, the court must accept all well-pleaded factual allegations as true and view the complaint in the light most favorable to the plaintiff. *Philips v. Pitt Cnty. Mem’ Hosp.*, 572 F.3d 176, 180 (4th Cir. 2009).

To survive a motion to dismiss for failure to state a claim, “a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Beal v. Al. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Iqbal*, 556 U.S. at 678.

While the court will construe *pro se* complaints liberally, *Este v. Gamble*, 429 U.S. 97, 106 (1976), the plaintiff must state a right to relief that is cognizable and plausible on its face, see *Iqbal*, 556 U.S. at 678. 2- II. Analysis Tatum’s complaint alleges only that Defendant Jackie Bird told him he would be charged for medication. No allegations relate to Defendant Justin Louis.

Liability under § 1983 is personal, meaning that a complaint must specify the individual actions or inactions of each named Defendant that give rise to relief. See *Trulock v. Freeh*, 275 F.3d 391, 402

(4th Cir. 2001). Dismissal of a defendant named only in the caption of the case is appropriate when the complaint fails to include any allegations specific to that defendant.

See *Harris v. City of Virginia Beach*, 11 F. App'x 212, 214–15, 217 (4th Cir. 2001) (upholding dismissal of five defendants because of lack of allegations of personal involvement). Accordingly, Tatum failed to state a plausible claim against Defendant Louis.

As to Defendant Bird, Tatum does not identify the legal basis for his complaint. “To state a claim under § 1983, a plaintiff must allege the violation of a right secured by the Constitution and laws of the United States.” *West v. Atkins*, 487 U.S. 42, 48 (1988). Tatum’s complaint fails to present a basis for a viable § 1983 claim. See *Davis v. Shompt*, No. 8:25-cv- 02550, 2025 WL 3164210, at *10 (D.S.C.

June 20, 2025), report and recommendation adopted sub nom. *Davis v. Long*, No. 8:25-cv-02550, 2025 WL 3159044 (D.S.C. Nov. 12, 2025) (dismissing similar claim given that “the allocation of the cost of medical care is matter of state law”). Further, no law or requirement appears to have been violated in any event. Medicaid excludes coverage for medication for incarcerated individuals.

See *Ohio Dep’t of Medicaid v. Price*, 864 F.3d 469, 472–73 (6th Cir. 2017) (explaining that “Medicaid’s inmate exclusion, which prohibits federal financial participation (FFP) for state medical expenditures made on behalf of ‘any individual who is an inmate of a public institution (except as a patient in a medical institution).’ 42 U.S.C. § 1396d(a)(29)(A).”).

States and localities are therefore permitted to charge incarcerated individuals for medication. See, e.g., *Reynolds v. Wagner*, 128 F.3d 166, 174 (3d Cir. 1997) (upholding fees and rejecting argument “that charging inmates for medical care is per se unconstitutional”). “Therefore, Defendant Bird could not be held liable under § 1983 for correctly advising Tatum about the law.

Finally, Tatum does not allege that he was denied any medication or that his medication related to a serious medical need, so he has not claimed any injury that could support a claim of deliberate indifference to serious medical needs. *Davis*, 2025 WL 3164210, at *10 (“Only when medical care is denied to an inmate because of inability to make a co-payment are deliberate indifference concerns under the Eighth and Fourteenth Amendments implicated.”).

Accordingly, the court finds Tatum’s claim against Defendant Bird is frivolous. III. Conclusion and Order For these reasons, the court GRANTS the application to proceed *7 forma pauperis*, but DISMISSES the complaint without prejudice under 28 U.S.C. § 1915(e)(2)(B) and (id); see also § 1915A(b)(1) (providing for same bases for dismissal).

The Clerk is DIRECTED to send a copy of this Memorandum Opinion and Order to Tatum and CLOSE the case. IT IS SO ORDERED. ENTERED this 22nd day of June, 2026. —H. UNITED

STATES DISTRICT JUDGE 4.

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