

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
ARKANSAS, NORTHERN DIVISION

**Marlin Vann Martin Rogers v. Dexter Payne, Director, Supervisor,
Arkansas Department of Correction; and Michelle Gray, Warden,
North Central Unit, Arkansas Department of Correction**

Rogers v. Payne · No. 3:24-CV-00218-BSM-BBM · Decided December 9, 2025

SUMMARY

This document is a Recommended Disposition from the United States District Court for the Eastern District of Arkansas in Rogers v. Payne, Case No. 3:24-CV-00218-BSM-BBM. The magistrate judge recommends dismissing Marlin Vann Martin Rogers’s pro se prisoner civil-rights complaint without prejudice for failure to state claims involving failure to protect, supervisory corrective inaction, and official-capacity liability. The Recommendation also recommends that the dismissal count as a Prison Litigation Reform Act strike and certifies that an in forma pauperis appeal would not be taken in good faith.

CASE DETAILS

COURT	United States District Court for the Eastern District of Arkansas, Northern Division
DECIDED	December 9, 2025
DOCKET	3:24-CV-00218-BSM-BBM
DISPOSITION	dismissed
PROCEDURAL POSTURE	A pro se prisoner brought a 42 U.S.C. § 1983 action against Arkansas Department of Correction officials in their individual and official capacities. On screening under the Prison Litigation Reform Act, a United States magistrate judge recommended dismissal without prejudice for failure to state a claim and recommended that the dismissal count as a strike.
STANDARD OF REVIEW	Under 28 U.S.C. § 1915A, the court must dismiss a prisoner complaint or portion of a complaint that is frivolous, malicious, fails to state a claim, or seeks monetary relief from an immune defendant. At screening, factual allegations are accepted as true and attached documents may be considered. To survive screening, the complaint must contain sufficient factual matter to state a plausible claim for relief.

TOPICS

prisoners rights

cruel and unusual punishment

section 1983

pleadings

civil procedure

PRACTICE AREAS

prisoner civil rights

constitutional litigation

federal civil procedure

§ 1983 litigation

PLRA screening

QUESTIONS PRESENTED

1. Whether Rogers plausibly alleged an Eighth Amendment failure-to-protect claim against Warden Gray based on the December 20, 2023 attack or the later attack at the East Arkansas Regional Unit.
2. Whether Rogers plausibly alleged individual or supervisory liability against Director Payne based on Payne's supervisory position and alleged responsibility for appointing staff.
3. Whether Rogers plausibly alleged supervisory corrective inaction by Gray or Payne based on notice of a pattern of unconstitutional acts.
4. Whether Rogers plausibly alleged an official-capacity claim based on an Arkansas Department of Correction policy, custom, or failure to train.
5. Whether the complaint should be dismissed without prejudice at PLRA screening and counted as a strike under 28 U.S.C. § 1915(g).

HOLDINGS

1. Rogers failed to state a plausible failure-to-protect claim against Warden Gray because he did not allege facts showing that Gray knew of a substantial risk to Rogers before the first attack or knew that Rogers faced such a risk at the facility where the second attack occurred.
2. Rogers failed to state a claim against Director Payne in his individual capacity because the complaint did not allege Payne's personal involvement in a constitutional violation and relied instead on Payne's supervisory position.
3. Rogers failed to state supervisory corrective-inaction claims against Gray and Payne because he did not allege that either supervisor received notice of a pattern of unconstitutional acts by a subordinate.
4. Rogers failed to state official-capacity claims because he did not plausibly allege that an Arkansas Department of Correction policy, custom, or failure to train caused an underlying constitutional violation.
5. The complaint should be dismissed without prejudice for failure to state a claim, and the dismissal should count as a strike under the PLRA.

KEY QUOTATIONS

“To survive pre-service screening under the PLRA, a “complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.”” (Section III)

“The Eighth Amendment requires prison officials to take reasonable measures to guarantee inmate safety by protecting them from attacks by other prisoners.” (Section III.A)

“Because vicarious liability is inapplicable to...§ 1983 suits, a plaintiff must plead that each Government-official defendant, through the official’s own individual actions, has violated the Constitution.” (Section III.A)

“Supervisors can incur liability for cruel and unusual punishment in two ways: they can be liable for their personal involvement in a constitutional violation, or when their corrective inaction amounts to deliberate indifference to or tacit authorization of the violative practices.” (Section III.B)

FACTUAL BACKGROUND

Rogers alleged that he was attacked by another inmate at the North Central Unit on December 20, 2023, because security was allegedly unaware of and unresponsive to violence in the barracks. He claimed that Warden Michelle Gray denied his request for protective custody and that he was later transferred to the East Arkansas Regional Unit, where he was attacked again. Rogers alleged that Director Dexter Payne was responsible for appointing staff and employing misconduct, but he did not provide facts showing Payne's personal involvement or notice of a pattern of unconstitutional conduct. He also asserted official-capacity, failure-to-train, and failure-to-supervise theories and sought monetary and other relief.

PROCEDURAL HISTORY

Rogers filed his complaint on November 18, 2024. The court conducted initial screening under 28 U.S.C. § 1915A, identified pleading deficiencies, and granted leave to amend while warning that an amended complaint would supersede the original. Rogers did not amend, so the court screened the original complaint and issued this Recommended Disposition to District Judge Brian S. Miller. The recommendation advised that objections could be filed within fourteen days and that the district judge could adopt it.

DISPOSITION

dismissed

CASES CITED

- In re Atlas Lines, Inc., 209 F.3d 1064, 1067 (8th Cir. 2000)
- Ashcroft v. Iqbal, 556 U.S. 662, 676, 678 (2009)
- Reynolds v. Dormire, 636 F.3d 976, 979 (8th Cir. 2011)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007)
- Topchian v. JPMorgan Chase Bank, N.A., 760 F.3d 843, 849 (8th Cir. 2014)
- Solomon v. Petray, 795 F.3d 777, 787 (8th Cir. 2015)
- Patterson v. Kelley, 902 F.3d 845, 851 (8th Cir. 2018)
- Choate v. Lockhart, 7 F.3d 1370, 1376 (8th Cir. 1993)
- S.M. v. Krigbaum, 808 F.3d 335, 340 (8th Cir. 2015)
- Engesser v. Fox, 993 F.3d 626, 631 (8th Cir. 2021)

- *Atkinson v. City of Mountain View, Mo.*, 709 F.3d 1201, 1214 (8th Cir. 2013)
- *Mitchell v. Saint Louis Cnty., Missouri*, 2025 WL 3483903, at *8 (8th Cir. Dec. 4, 2025)
- *Jackson v. Buckman*, 756 F.3d 1060, 1067 n.3 (8th Cir. 2014)

OPINION

IN THE UNITED STATES DISTRICT COURT EASTERN DISTRICT OF ARKANSAS
NORTHERN DIVISION MARLIN VANN MARTIN ROGERS PLAINTIFF #662205 V. Case No.
3:24-CV-00218-BSM-BBM DEXTER PAYNE, Director, Supervisor, Arkansas Department of
Correction; and MICHELLE GRAY, Warden, North Central Unit, Arkansas Department of
Correction DEFENDANTS RECOMMENDED DISPOSITION The following Recommended
Disposition (“Recommendation”) has been sent to United States District Judge Brian S. Miller.

You may file written objections to all or part of this Recommendation. If you do so, those objections must: (1) specifically explain the factual and/or legal basis for your objection; and (2) be received by the Clerk of this Court within fourteen (14) days of the date of this Recommendation. If you do not file objections, Judge Miller may adopt this Recommendation without independently reviewing all of the evidence in the record.

By not objecting, you may waive the right to appeal questions of fact. I. INTRODUCTION On November 18, 2024, Marlin Vann Martin Rogers (“Rogers”), an inmate in the East Arkansas Regional Unit (“EARU”) of the Arkansas Division of Correction (“ADC”), filed a pro se Complaint alleging violations of his constitutional rights. (Doc. 2).

The Court conducted an initial screening of the Complaint pursuant to the Prison Litigation Reform Act (“PLRA”)¹ and noted several deficiencies. (Doc. 4). Rogers was given leave to file an amended complaint and placed on notice that an amended pleading would supersede his previous Complaint. *Id.* at 8 (citing *In re Atlas Lines, Inc.*, 209 F.3d 1064, 1067 (8th Cir.

2000)). Rogers failed to file an amended complaint, and the time to do so has passed. (Doc. 4 at 9). Accordingly, the Court will proceed with screening his operative Complaint, (Doc. 2). 28 U.S.C. § 1915A(a). II. ALLEGATIONS In his Complaint, Rogers generally alleges that Defendant ADC Director Dexter Payne (“Director Payne”) has appointed staff that violate Rogers’s rights, and Defendant North Central Unit Warden Michelle Gray (“Warden Gray”) was aware of an attack on Rogers at the North Central Unit; instead of receiving his requested protective custody after the attack, Rogers was transferred to the EARU, where he was attacked again.

(Doc. 2 at 1). More specifically, Rogers claims in a January 1, 2024 grievance attached to his Complaint that he was attacked at the North Central Unit on December 20, 2023, due to security being “unaware and unresponsive” to physical violence in the barracks that day.² ¹ The PLRA requires federal courts to screen prisoner complaints seeking relief against a governmental entity, officer, or employee.

28 U.S.C. § 1915A(a). The Court must dismiss a complaint or a portion thereof if the prisoner has raised claims that: (a) are legally frivolous or malicious; (b) fail to state a claim upon which relief may be granted; or (c) seek monetary relief from a defendant who is immune from such relief. *Id.* § 1915A(b). When making this determination, the Court must accept the truth of the factual allegations contained in the complaint, and it may consider the documents attached to the complaint.

Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009); *Reynolds v. Dormire*, 636 F.3d 976, 979 (8th Cir. 2011). 2 Elsewhere in his Complaint, Rogers alleges that security was unaware and unresponsive due to a failure to train and supervise. (Doc. 2 at 5). (Doc. 2 at 7).

In the same grievance, Rogers asserts that Warden Gray and the administration at the North Central Unit “fail to prioritize the security of inmates.” *Id.* Warden Gray responded to the grievance and told Rogers: “I find that you failed to immediately report this incident to security. I find no evidence to support your allegations that the administration fails to prioritize your safety.

Therefore, I find this grievance to be without merit.” *Id.* Rogers’s appeal of that grievance was denied. *Id.* On an unspecified date, Rogers alleges that he informed Sarah Huckabee-Sanders about the attack, and Huckabee-Sanders “contacted Warden Gray.” *Id.* at 5.

In another grievance initiated on January 8, 2024, Rogers grieved that: (1) he was the victim of hate crime and targeting from the Aryan Nation; and (2) at his protective custody hearing on January 4, 2024, Warden Gray told him there was nothing she could do. (Doc. 2 at 8). Warden Gray responded to this grievance, informing Rogers that the committee denied Rogers’s request for protective custody because he did not substantiate his claims.

Id. at 8, 9. Rogers’s appeal of the January 8, 2024 grievance was denied. *Id.* at 8. After the December 20, 2023 attack at the North Central Unit, Rogers says he was transferred to the EARU, “under [the] Warden M. Gray administration—appointed by Director Payne,” where he was stabbed by another inmate in violation of his Eighth Amendment rights.³ (Doc. 2 at 5).

The attack occurred on non-party Captain Davis’s shift, and Rogers alleges that non-party Chief of Security Major Rodney Brown (“Major 3 Throughout this Recommendation, any capitalization, spelling, or grammatical errors are corrected internally and without brackets. Brown”) is liable as a supervisor. *Id.* at 4–5. Rogers further alleges that: (1) Warden Gray could have prevented the second attack, but “she denied [him],” *id.* at 4; (2) “Director Payne is fully responsible for employing such misconduct,” *id.*; and (3) Rogers has a “stab order” on him, *id.* at 5.

Finally, Rogers asserts that he is suffering mental trauma, and he has “multiple grievances, a history, and a story to tell[.]” *Id.* at 4. Rogers sues the Defendants in their official and individual capacities. (Doc. 2 at 2).

For relief, Rogers requests \$500,000, a refund for various expenses, and a meeting with the Governor and the Director of the ADC. *Id.* at 6. III. SCREENING To survive pre-service screening under the PLRA, 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). “[L]abels and conclusions,” a “formulaic recitation of the elements of a cause of action,” and “naked assertions devoid of further factual enhancement” are insufficient to plead a plausible claim.

Id. Further, “[f]actual allegations must be enough to raise a right to relief above the speculative level.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (citation omitted). However, “[a] pro se complaint must be liberally construed,” and courts “should construe the complaint in a way that permits the layperson’s claim to be considered within the proper legal framework.” *Topchian v. JPMorgan Chase Bank, N.A.*, 760 F.3d 843, 849 (8th Cir.

2014) (cleaned up; citations omitted); *Solomon v. Petray*, 795 F.3d 777, 787 (8th Cir. 2015) (citation omitted). Liberally construing Rogers’s Complaint, he brings failure-to-protect and supervisory corrective-inaction claims, but he fails to allege sufficient facts to support any plausible claim against the named Defendants. A. Failure to Protect The Court construes an Eighth Amendment failure-to-protect claim from Rogers’s allegations. “The Eighth Amendment requires prison officials to take reasonable measures to guarantee inmate safety by protecting them from attacks by other prisoners.” *Patterson v. Kelley*, 902 F.3d 845, 851 (8th Cir.

2018) (cleaned up; citations omitted). However, prison officials only violate the Eighth Amendment “when they exhibit a deliberate or callous indifference to an inmate’s safety.” *Id.* (cleaned up; citation omitted). Thus, in order to state a plausible failure-to-protect claim, a plaintiff must allege facts showing: “[1] an objective component, [that] there was a substantial risk of harm to the inmate, and [2] a subjective component, [that] the prison official was deliberately indifferent to that risk.” *Id.* (brackets in original; citation omitted).

Warden Gray. According to the January 1, 2024 grievance attached to Rogers’s Complaint, Rogers was attacked on December 20, 2023, due to security being “unaware and unresponsive” to physical violence in the barracks that day. (Doc. 2 at 7). Warden Gray responded to the grievance and found it to be without merit. *Id.* Warden Gray also responded to a January 8, 2024 grievance regarding Rogers’s attack and protective custody hearing.

(Doc. 2 at 8, 9). Rogers alleges that Warden Gray’s administration transferred him to the EARU instead of placing him in protective custody. *Id.* at 5. At the EARU, Rogers was attacked again; Warden Gray could have prevented the attack, but “she denied [Rogers].” *Id.* at 4.

As the Court understands it, after his first attack at the North Central Unit, Rogers was denied protective custody but was eventually transferred to the EARU. (Doc. 2 at 4– 5, 7–8). As to the

first attack at the North Central Unit, there are no factual allegations supporting any assertion that Warden Gray was aware of any risk to Rogers before that attack occurred.

Without these necessary facts, Rogers fails to state a failure-to-protect claim against Warden Gray regarding the December 20, 2023 attack. Regarding the second attack, Rogers asserts that he informed Warden Gray—via the January 8, 2024 grievance—that he was being targeted by the Aryan Nation, but Warden Gray denied him protective custody, and her administration is responsible for transferring Rogers to the EARU.

Id. at 4–5, 7. But Rogers fails to allege when he was transferred, when he was attacked a second time, and whether the second attack is related to the same targeting he experienced at the North Central Unit. Indeed, Rogers fails to allege whether or how Warden Gray was on notice of a substantial risk to Rogers’s safety at the EARU—as opposed to the North Central Unit.

Thus, as pleaded, Rogers also fails to state a failure-to-protect claim against Warden Gray for the second attack at a different correctional facility. Director Payne. According to Rogers, Director Payne has appointed staff that violate Rogers’s rights. (Doc. 2 at 4). And instead of receiving his requested protective custody after being attacked in December 2023, Rogers was transferred to the EARU.

Id. Rogers additionally asserts that “Director Payne is fully responsible for employing such misconduct” related to the two attacks. *Id.* Rogers does not allege, however, how Director Payne was personally involved in the purported violation of his constitutional rights. He cannot maintain a claim against Payne based solely on his position as an ADC supervisor.

See *Iqbal*, 556 U.S. at 676 (“Because vicarious liability is inapplicable to...§ 1983 suits, a plaintiff must plead that each Government-official defendant, through the official’s own individual actions, has violated the Constitution.”).

Thus, to the extent Rogers may seek to name Director Payne in his individual capacity, the allegations in his Complaint fail to state a claim against him. B. Supervisory Corrective Inaction To the extent Rogers seeks to sue Warden Gray and Director Payne in their supervisory capacity, those claims also fail to state a claim for relief. “Supervisors can incur liability for cruel and unusual punishment in two ways: they can be liable for their personal involvement in a constitutional violation, or when their corrective inaction amounts to deliberate indifference to or tacit authorization of the violative practices.” *Choate v. Lockhart*, 7 F.3d 1370, 1376 (8th Cir.

1993) (cleaned up). For a “corrective inaction” claim, supervisors must have “received notice of a pattern of unconstitutional acts committed by a subordinate.” *S.M. v. Krigbaum*, 808 F.3d 335, 340 (8th Cir. 2015). Moreover, supervisors cannot be held “liable for ‘corrective inaction’ where there [is] no constitutional violation[] to correct.” *Choate*, 7 F.3d at 1376; see also *Engesser v. Fox*, 993 F.3d 626, 631 (8th Cir.

2021). Warden Gray. From Rogers's Complaint and its attachments, it is clear that Warden Gray was aware of the December 20, 2023 attack on Rogers. (Doc. 2 at 4–5, 7). While Rogers's January 1, 2024 grievance mentions that security was unresponsive to multiple acts of violence on December 20, 2023, the mere mention of unresponsiveness on one day does not show that Warden Gray was on notice of a "pattern of unconstitutional acts committed by a subordinate." Krigbaum, 808 F.3d at 340.

Thus, Rogers's Complaint fails to state a corrective-inaction claim against Warden Gray. Director Payne. Similarly, Rogers offers no facts to support any corrective-inaction claim against Director Payne. While Rogers alleges that Director Payne is responsible for employing the people involved in the "misconduct," (Doc. 2 at 4), nothing in the Complaint suggests that Director Payne was on notice of a "pattern of unconstitutional acts committed by a subordinate." Krigbaum, 808 F.3d at 340.

Thus, Rogers's Complaint fails to state a corrective-inaction claim against Director Payne. C. Official-Capacity Claims Rogers also sues all Defendants in their official capacity. (Doc. 2 at 2). To plead a claim against Defendants in their official capacities, Rogers must allege facts showing that the purported constitutional violations were the result of an official ADC policy, an unofficial custom, or a failure to train.

Atkinson v. City of Mountain View, Mo., 709 F.3d 1201, 1214 (8th Cir. 2013). Liberally construing Rogers's allegations, he asserts that the December 20, 2023 attack occurred as a result of a failure to train or supervise in the North Central Unit. (Doc. 2 at 5). But he does not allege any specific deficiency in the ADC's training practices. See Mitchell v. Saint Louis Cnty., Missouri, ___ F.4th ___, 2025 WL 3483903, at *8 (8th Cir.

Dec. 4, 2025) (standard for failure-to-train claim). Moreover, official-capacity claims—like supervisory-liability claims—fail if there is no underlying constitutional violation. Jackson v. Buckman, 756 F.3d 1060, 1067 n.3 (8th Cir. 2014).

Because Rogers has not plausibly alleged any underlying constitutional violation, his official-capacity claims necessarily fail. IV. CONCLUSION IT IS THEREFORE RECOMMENDED THAT: 1. Rogers's Complaint, (Doc. 2), be DISMISSED without prejudice for failure to state a claim upon which relief may be granted. 2.

The Court RECOMMEND that the dismissal count as a "strike" for the purposes of the Prison Litigation Reform Act. 28 U.S.C. § 1915(g). 3. The Court CERTIFY, pursuant to 28 U.S.C. § 1915(a)(3), that an in forma pauperis appeal from any Order adopting this Recommendation would not be taken in good faith. DATED this 9th day of December, 2025. NITED STATES MAGISTRATE JUDGE

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