

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Ahmed Mohammad Elghembri v. Jane Doe, et al.

Elghembri v. Doe · No. 24-cv-02768-WHO (PR) · Decided June 6, 2025

SUMMARY

The United States District Court for the Northern District of California dismissed Ahmed Mohamed Elghembri’s 42 U.S.C. § 1983 action for failure to state a claim. The court held that allegations of verbal harassment, abuse, obscenities, and threats by prison personnel were not cognizable constitutional violations, and therefore also did not support claims against supervisory defendants.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	William H. Orrick
JURISDICTION	United States District Court for the Northern District of California
DECIDED	June 6, 2025
DOCKET	24-cv-02768-WHO (PR)
DISPOSITION	dismissed
PROCEDURAL POSTURE	A prisoner brought a pro se action under 42 U.S.C. § 1983. After the original complaint was dismissed with leave to amend, the court screened the first amended complaint under 28 U.S.C. § 1915A and dismissed the action for failure to state a claim.
STANDARD OF REVIEW	Mandatory preliminary screening of a prisoner complaint under 28 U.S.C. § 1915A; dismissal is required if the complaint is frivolous, malicious, fails to state a claim, or seeks monetary relief from an immune defendant. The court applied the Rule 8 facial-plausibility standard and liberally construed the pro se pleading.
PRECEDENTIAL VALUE	unpublished district court order; precedential status not stated
PARTIES	Ahmed Mohammad Elghembri v. Jane Doe, et al.

TOPICS

- prisoners rights
- section 1983
- civil rights
- pleadings
- constitutional law

PRACTICE AREAS

civil rights

prisoner litigation

constitutional law

federal civil procedure

QUESTIONS PRESENTED

1. Whether allegations that prison personnel made rude, offensive, or obscene statements and ordered plaintiff to leave a class state a cognizable claim under 42 U.S.C. § 1983.
2. Whether the first amended complaint states a claim against supervisory defendants when it alleges no underlying constitutional violation by the unnamed teacher.

HOLDINGS

1. Allegations of verbal harassment and abuse, including mere threats, do not state a cognizable claim for relief under 42 U.S.C. § 1983.
2. When the complaint states no claim against the unnamed defendant, it likewise states no claim against the supervisory persons mentioned by plaintiff.

KEY QUOTATIONS

“This federal civil rights action is *DISMISSED* for failure to state a claim for relief.” (Conclusion)

FACTUAL BACKGROUND

Plaintiff, a prisoner at San Quentin State Prison, alleged that an unnamed teacher and members of a class made obscene or offensive statements about him. He also alleged that when he entered a class in which he was not a student, the participants ordered him to leave. In the first amended complaint, he repeated allegations of verbal harassment and referred to supervisory persons, but alleged no independent constitutional violation.

PROCEDURAL HISTORY

The original complaint alleged that an unnamed prison teacher and others made obscene or offensive remarks and ordered plaintiff to leave a class. The court dismissed that complaint with leave to amend because verbal harassment, abuse, and threats did not state a cognizable § 1983 claim. Plaintiff filed a first amended complaint repeating substantially the same allegations and referring to supervisory defendants; the court dismissed the action and directed the Clerk to enter judgment for defendants and close the file.

DISPOSITION

dismissed

CASES CITED

- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 556, 570 (2007)
- Clegg v. Cult Awareness Network, 18 F.3d 752, 754–55 (9th Cir. 1994)
- West v. Atkins, 487 U.S. 42, 48 (1988)

- Freeman v. Arpaio, 125 F.3d 732, 738 (9th Cir. 1997)
- Gaut v. Sunn, 810 F.2d 923, 925 (9th Cir. 1987)

OPINION

1 2 3 4 UNITED STATES DISTRICT COURT 5 NORTHERN DISTRICT OF CALIFORNIA 6 7
 AHMED MOHAMMAD ELGHEMBRI, Case No. 24-cv-02768-WHO (PR) Plaintiff, 8 ORDER
 OF DISMISSAL v. 9 10 JANE DOE, et al., Defendants. 11 12 13 INTRODUCTION 14 Plaintiff
 Ahmed Mohamed Elghembri alleges that a prison teacher and others made 15 rude and offensive
 statements to him, thereby violating his constitutional rights.

His first 16 amended 42 U.S.C. § 1983 complaint containing these allegations is now before me
 for 17 review pursuant to 28 U.S.C. § 1915A(a). Allegations of verbal abuse and harassment fail
 18 to state a cognizable claim under 42 U.S.C. § 1983. This federal civil right action is 19
 DISMISSED because Elghembri fails to state a claim for relief. 20 DISCUSSION 21 A. Standard
 of Review 22 A federal court must conduct a preliminary screening in any case in which a 23
 prisoner seeks redress from a governmental entity or officer or employee of a 24 governmental
 entity.

See 28 U.S.C. § 1915A(a). In its review, the court must identify any 25 cognizable claims and
 dismiss any claims that are frivolous, malicious, fail to state a claim 26 upon which relief may be
 granted or seek monetary relief from a defendant who is immune 27 from such relief. See *id.* §
 1915A(b)(1), (2). Pro se pleadings must be liberally construed. 1 A “complaint must contain
 sufficient factual matter, accepted as true, to ‘state a 2 claim to relief that is plausible on its face.’”
Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) 3 (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S.
 544, 570 (2007)). “A claim has facial 4 plausibility when the plaintiff pleads factual content that
 allows the court to draw the 5 reasonable inference that the defendant is liable for the misconduct
 alleged.” *Id.* (quoting 6 *Twombly*, 550 U.S. at 556).

Furthermore, a court “is not required to accept legal 7 conclusions cast in the form of factual
 allegations if those conclusions cannot reasonably 8 be drawn from the facts alleged.” *Clegg v.*
Cult Awareness Network, 18 F.3d 752, 754–55 9 (9th Cir. 1994). 10 To state a claim under 42
 U.S.C. § 1983, a plaintiff must allege two essential 11 elements: (1) that a right secured by the
 Constitution or laws of the United States was 12 violated, and (2) that the alleged violation was
 committed by a person acting under the 13 color of state law.

See *West v. Atkins*, 487 U.S. 42, 48 (1988). 14 B. Legal Claims 15 i. Original Complaint 16 In the
 original complaint, Elghembri alleged that an unnamed teacher at San 17 Quentin State Prison
 (and members of the class being taught) were speaking obscenities 18 about him and, when he
 entered the class (of which he was not a student), these persons 19 ordered him to leave.

(Compl., Dkt. No. 1 at 6.) Because these allegations were 20 insufficient to state a claim for relief, the complaint was dismissed with leave to amend. 21 Allegations of verbal harassment and abuse fail to state a claim cognizable under 42 U.S.C. § 1983. See *Freeman v. Arpaio*, 125 F.3d 732, 738 (9th Cir. 1997). Allegations of 23 mere threats are not cognizable under § 1983 either.

See *Gaut v. Sunn*, 810 F.2d 923, 925-24 (9th Cir. 1987) (mere threat does not constitute constitutional wrong, nor do allegations 25 that naked threat was for purpose of denying access to courts compel contrary result). 26 ii.

First Amended Complaint 27 In the first amended complaint, Elghembri again contends that an unnamed teacher 1 || at 6-7.) As before, his allegations of verbal harassment and abuse fail to state a claim 2 || cognizable under 42 U.S.C. § 1983. See *Freeman*, 125 F.3d at 738.

Because there is no 3 || claim against the unnamed defendant, there is no claim against the supervisory persons 4 || Elghembri mentions. This action will be dismissed. 5 CONCLUSION 6 This federal civil rights action is DISMISSED for failure to state a claim for relief. 7 || The Clerk shall enter judgment in favor of defendants, and close the file. 8 IT IS SO ORDERED.

9 || Dated: June 6, 2025. 10. I AM H. ORRICK 11 United States District Judge qa 12 © 15 16 Z 18 19 20 21 22 23 24 25 26 27 28