

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.

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
DISMSSED 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 22 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. IAM H. ORRICK 11 United States District Judge qa 12 © 15 16 Z 18 19 20 21 22 23 24 25 26 27 28