

**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

---

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