

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

Antoine Grisson v. PeopleReady, Pam Gamboa, Shawn Bruchella,
also known as Shawn Buchalla, and Frontier Fertilizer

Grisson · No. 24-cv-02762-SKC-KAS · Decided March 30, 2026

SUMMARY

The United States District Court for the District of Colorado granted defendants’ motions to dismiss Plaintiff Antoine Grisson’s Second Amended Complaint without prejudice. The order addresses administrative-exhaustion issues under Title VII and the Colorado Anti-Discrimination Act, the sufficiency of claims under the Fair Credit Reporting Act and Colorado consumer-reporting law, defamation, intentional infliction of emotional distress, and negligent hiring and retention. The court also dismissed Defendant Pam Gamboa based on conclusory and insufficiently connected allegations.

CASE DETAILS

COURT	United States District Court for the District of Colorado
WRITING FOR THE COURT	S. Kato Crews
JURISDICTION	United States District Court for the District of Colorado
DECIDED	March 30, 2026
DOCKET	24-cv-02762-SKC-KAS
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendants moved to dismiss the pro se plaintiff’s Second Amended Complaint under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6).
STANDARD OF REVIEW	On a Rule 12(b)(1) motion, the plaintiff bears the burden of establishing subject-matter jurisdiction; the court may consider matters outside the pleadings when jurisdictional facts are challenged. On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true, views them in the plaintiff’s favor, and determines whether the complaint plausibly states a claim for relief.
PRECEDENTIAL VALUE	unknown
PARTIES	Antoine Grisson v. PeopleReady, Pam Gamboa, Shawn Bruchella, also known as Shawn Buchalla, Frontier Fertilizer

TOPICS

employment discrimination

retaliation

motions to dismiss

civil procedure

consumer protection

PRACTICE AREAS

employment law

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QUESTIONS PRESENTED

1. Whether Title VII and CADA claims against Frontier Fertilizer were barred or subject to dismissal because plaintiff failed to exhaust administrative remedies as to that defendant.
2. Whether plaintiff's claims against Frontier Fertilizer under the Fair Credit Reporting Act, Colorado Consumer Reporting Act, defamation, intentional infliction of emotional distress, and negligent hiring or retention were plausibly pleaded.
3. Whether plaintiff plausibly stated Title VII and CADA discrimination claims based on conviction record, race, or disability.
4. Whether plaintiff plausibly stated Title VII and CADA retaliation claims.
5. Whether plaintiff plausibly stated Fair Credit Reporting Act and Colorado Consumer Reporting Act claims based on an allegedly unauthorized consumer report.
6. Whether plaintiff plausibly stated a defamation claim against Buchalla.
7. Whether plaintiff's intentional-infliction-of-emotional-distress and negligent-hiring-or-retention claims were barred or inadequately pleaded.
8. Whether the complaint could be liberally construed to state Fair Labor Standards Act or Colorado Wage Act claims.

HOLDINGS

1. Failure to exhaust administrative remedies is an affirmative defense rather than a jurisdictional prerequisite to a Title VII action, but it supports dismissal when the grounds for the defense appear on the face of the complaint. Because the administrative notice identified only PeopleReady and did not mention Frontier Fertilizer or its employees, plaintiff's Title VII claims against Frontier Fertilizer were dismissed without prejudice.
2. CADA requires exhaustion of available administrative proceedings and remedies before a civil action may be filed. Because Frontier Fertilizer was not identified as a respondent in the CCRD proceedings, the court lacked subject-matter jurisdiction over plaintiff's CADA claims against Frontier Fertilizer.
3. A complaint must contain sufficient factual matter to state a plausible claim for relief; conclusory allegations and threadbare recitals of elements are insufficient, including in a pro se complaint.
4. Conviction status is not a protected class under Title VII or CADA. Plaintiff also failed to plausibly allege race- or disability-based discrimination because he did not provide facts showing that the allegedly more favorably treated employees were similarly situated or otherwise connecting the conduct to discriminatory animus.

5. A retaliation claim requires protected conduct related to Title VII or CADA discrimination, an adverse employment action, and a causal connection. Complaints about conviction-based discrimination are not protected, and plaintiff's conclusory assertion that his hours were reduced because of his complaints did not plausibly establish causation.
6. A claim based on obtaining a consumer report without a permissible purpose or authorization must identify the report, the defendant's use or acquisition, the absence of a permissible statutory purpose or authorization, and the defendant's negligent or willful conduct. Plaintiff's conclusory allegation that the report was obtained without proper authorization failed to state either claim.
7. A defamation claim requires a statement published to third persons, falsity, and the defendant's knowledge of falsity or reckless disregard. Plaintiff failed to identify the statement, its recipient, its falsity, or Buchalla's state of mind.
8. An intentional-infliction-of-emotional-distress claim requires extreme and outrageous conduct, intentional or reckless conduct, and severe emotional distress caused by the conduct. Alleged discrimination, retaliation, payroll irregularities, and related employment conduct, pleaded in conclusory fashion and without conduct beyond the discrimination allegations, did not meet that standard.
9. Negligent hiring or retention requires the usual negligence elements and an agency relationship, and liability requires facts showing that the employer had reason at hiring to foresee the specific danger that later manifested. Plaintiff's conclusory allegations failed to plead causation or foreseeability, and his tort damages were also subject to workers' compensation exclusivity.

KEY QUOTATIONS

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

“If Plaintiff’s claim rests on any statement that his felony conviction would limit his job assignments, that statement was made to him, not a third person, and it was apparently true, according to the background check.” (Section III.B.5)

FACTUAL BACKGROUND

Plaintiff Antoine Grisson, an African American worker with a learning disorder and bipolar disorder, was employed by PeopleReady, a temporary staffing agency, and placed at jobs with Frontier Fertilizer. He alleged that defendants paid him less than nonprotected workers, denied opportunities and benefits, manipulated or falsified time records, failed to pay all hours worked, and retaliated after he complained. He also alleged that PeopleReady obtained and used a consumer report without proper authorization and that supervisor Shawn Buchalla made defamatory statements. The court found that the allegations were largely conclusory and that the administrative record named PeopleReady, but not Frontier Fertilizer, as the respondent.

PROCEDURAL HISTORY

Grisson filed a Second Amended Complaint asserting employment-discrimination, retaliation, credit-reporting, defamation, intentional-infliction-of-emotional-distress, negligent-hiring-and-retention, and potentially wage-

related claims. Frontier Fertilizer and the PeopleReady defendants moved to dismiss. The court granted both motions and dismissed all claims without prejudice.

DISPOSITION

dismissed

CASES CITED

- Trackwell v. United States, 472 F.3d 1242, 1243 (10th Cir. 2007)
- Haines v. Kerner, 404 U.S. 519, 520-21 (1972)
- Hall v. Bellmon, 935 F.2d 1106, 1109-10 (10th Cir. 1991)
- Associated General Contractors of California, Inc. v. California State Council of Carpenters, 459 U.S. 519, 526 (1983)
- Whitney v. New Mexico, 113 F.3d 1170, 1173-75 (10th Cir. 1997)
- Castaneda v. INS, 23 F.3d 1576, 1580 (10th Cir. 1994)
- Basso v. Utah Power & Light Co., 495 F.2d 906, 909 (10th Cir. 1974)
- Holt v. United States, 46 F.3d 1000, 1003 (10th Cir. 1995)
- Dubbs v. Head Start, Inc., 336 F.3d 1194, 1201 (10th Cir. 2003)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007)
- Lincoln v. BNSF Railway Co., 900 F.3d 1166, 1183-85 & n.10 (10th Cir. 2018)
- Payan v. United Parcel Service, 905 F.3d 1162, 1169 (10th Cir. 2018)
- Brereton v. Bountiful City Corp., 434 F.3d 1213, 1218 (10th Cir. 2006)
- Cirocco v. McMahon, 768 F. App'x 854, 858 (10th Cir. 2019)
- Romero v. Union Pacific Railroad, 615 F.2d 1303, 1311-12 (10th Cir. 1980)
- Knitter v. Corvalis Military Living, LLC, 758 F.3d 1214, 1218, 1226, 1228-31 (10th Cir. 2014)
- Browning-Ferris Industries of California, Inc. v. NLRB, 911 F.3d 1195, 1199 (D.C. Cir. 2018)
- Nasious v. Two Unknown B.I.C.E. Agents, 492 F.3d 1158, 1163 (10th Cir. 2007)
- Culpepper v. Pearl Street Building, Inc., 877 P.2d 877, 882 (Colo. 1994)
- Destefano v. Grabrian, 763 P.2d 275, 286 (Colo. 1988)
- Yarbrough v. ADT Security Services, Inc., 2008 WL 3211284, at *8-*9 (D. Colo. Aug. 6, 2008)
- Katz v. City of Aurora, 85 F. Supp. 2d 1012, 1021 (D. Colo. 2000)
- Bellairs v. Coors Brewing Co., 907 F. Supp. 1448, 1459 (D. Colo. 1995)
- Barham v. Scalia, 928 P.2d 1381, 1385-86 (Colo. App. 1996)
- Visor v. Sprint/United Management Co., 965 F. Supp. 31, 33 (D. Colo. 1997)
- Johnson v. Weld County, Colorado, 594 F.3d 1202, 1219 n.11 (10th Cir. 2010)
- McDonnell Douglas Corp. v. Green, 411 U.S. 792, 793 (1973)
- Young v. United Parcel Service, Inc., 575 U.S. 206, 213 (2015)

- Smith v. McDonough, 2021 WL 4656066, at *5 (D.N.M. Oct. 7, 2021)
- Hwang v. Kansas State University, 753 F.3d 1159, 1164 (10th Cir. 2014)
- Plotke v. White, 405 F.3d 1092, 1100 (10th Cir. 2005)
- Laul v. Los Alamos National Laboratory, 765 F. App'x 434, 441-42 (10th Cir. 2019)
- Schone v. Sodexo, Inc., 2021 WL 915937, at *7 (D. Colo. Mar. 10, 2021)
- Tracy v. Vail Resorts, Inc., 2022 WL 16557393, at *4 (10th Cir. Nov. 1, 2022)
- Grays v. Kittredge Co Partners, 2021 WL 1300601, at *6 (D. Colo. Feb. 17, 2021)
- Zerr v. Johnson, 894 F. Supp. 372, 376 (D. Colo. 1995)
- Nielsen v. Archdiocese of Denver, 413 F. Supp. 2d 1181, 1184 (D. Colo. 2006)
- Valles v. Gen-X Echo B, Inc., 2013 WL 5861653, at *6 (D. Colo. Oct. 8, 2013), report and recommendation adopted, 2013 WL 5832745 (D. Colo. Oct. 30, 2013)
- Johnson v. USA Truck, Inc., 2007 WL 2461645, at *3 (D. Colo. Aug. 27, 2007)
- Middlemist v. BDO Seidman, LLP, 958 P.2d 486, 494 (Colo. App. 1997)
- Hill v. Ciolli, 2024 WL 4333367, at *4 (D. Colo. Sept. 27, 2024)

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