

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

Lacey Sivak v. Barry G. Silverman; Richard Paez; and Holly Thomas

Sivak v. Silverman, No. 1:26-cv-00163-DCN (D. Idaho Apr. 7, 2026) · No. 1:26-cv-00163-DCN · Decided April 7, 2026

SUMMARY

The United States District Court for the District of Idaho dismissed Lacey Sivak’s prisoner-filed complaint seeking to initiate criminal charges against private individuals. The court held that the claims were legally frivolous and malicious because a private citizen has no judicially cognizable right to institute a federal criminal prosecution. The case was dismissed with prejudice under 28 U.S.C. § 1915A(b), without leave to amend.

CASE DETAILS

COURT	United States District Court for the District of Idaho
JURISDICTION	United States District Court for the District of Idaho
DECIDED	April 7, 2026
DOCKET	1:26-cv-00163-DCN
DISPOSITION	dismissed
PROCEDURAL POSTURE	Initial screening of a prisoner's conditionally filed complaint under 28 U.S.C. § 1915A.
STANDARD OF REVIEW	Under 28 U.S.C. § 1915A, the court must dismiss a prisoner's complaint that is frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from an immune defendant. In assessing whether a complaint states a claim, the court applies the plausibility standard under Federal Rule of Civil Procedure 8(a)(2) and Ashcroft v. Iqbal and Bell Atlantic Corp. v. Twombly, accepting factual allegations as true.
PRECEDENTIAL VALUE	Unpublished, nonprecedential district court order

TOPICS

- prisoners rights
- civil procedure
- pleadings
- motions to dismiss
- affirmative defenses

PRACTICE AREAS

- civil procedure
- prisoner litigation
- federal criminal prosecution

QUESTIONS PRESENTED

1. Whether the complaint should be dismissed during prisoner screening because a private citizen cannot initiate a federal criminal prosecution.
2. Whether the complaint was frivolous and malicious under 28 U.S.C. § 1915A(b).
3. Whether Plaintiff should be granted leave to amend.

HOLDINGS

1. A private citizen cannot institute a federal criminal action; federal criminal prosecutions may be brought only by the federal government through the United States Attorney. A private citizen also lacks a judicially cognizable interest in the prosecution or nonprosecution of another.
2. The complaint was legally frivolous and malicious because its claims lacked a legal basis and Plaintiff repeatedly asserted claims despite having been informed that such claims were unavailable.
3. Leave to amend was denied because amendment would be futile.

KEY QUOTATIONS

“A private citizen lacks a judicially cognizable interest in the prosecution or nonprosecution of another”
(Discussion section)

“Plaintiff’s Complaint is DISMISSED with prejudice because the claims are frivolous and malicious.” (Order)

FACTUAL BACKGROUND

Plaintiff Lacey Sivak was an inmate in the custody of the Idaho Department of Correction. She attempted to bring criminal charges against two individuals through a civil complaint styled as a criminal complaint alleging sedition, torture, and obstruction of justice. The court noted that Plaintiff had repeatedly been informed in prior litigation that a private citizen cannot institute a federal criminal action and nevertheless reasserted claims lacking a legal basis.

PROCEDURAL HISTORY

The Clerk conditionally filed Plaintiff’s complaint because Plaintiff was an inmate. The district court screened the complaint and dismissed it with prejudice under 28 U.S.C. § 1915A(b), finding the claims frivolous and malicious. The court denied leave to amend because amendment would be futile.

DISPOSITION

dismissed

CASES CITED

- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 556 (2007)
- Jackson v. Arizona, 885 F.2d 639, 640 (9th Cir. 1989)

- Lopez v. Smith, 203 F.3d 1122, 1130 (9th Cir. 2000)
- Washington v. Los Angeles Cnty. Sheriff's Dep't, 833 F.3d 1048, 1056 (9th Cir. 2016)
- Sivak v. Clerk of Court, No. 1:24-cv-00030-AKB, 2024 WL 1194460, at *2 (D. Idaho Mar. 20, 2024)
- Sivak v. Docket Clerk, No. 1:24-cv-00021-DCN, 2024 WL 380880, at *2 (D. Idaho Feb. 1, 2024)
- Sivak v. Docket Clerk, No. 1:24-cv-00020-BLW (D. Idaho Feb. 4, 2024)
- Sivak v. Docket Clerk, No. 1:24-cv-00019-BLW, 2024 WL 1071944, at *2 (D. Idaho Mar. 12, 2024)
- Sivak v. Winmill, No. 1:23-cv-00014-AKB, 2023 WL 4600516, at *2 (D. Idaho July 18, 2023)
- Sivak v. Duggan, No. 1:21-CV-00166-BLW, 2021 WL 1881038, at *1 (D. Idaho Apr. 26, 2021)
- Sivak v. Doe, No. 1:19-CV-00234-DCN, 2019 WL 13240389, at *2 (D. Idaho Sept. 11, 2019)
- Sivak v. Wilson, No. 1:93-CV-00081-EJL, 2014 WL 12634293, at *2 (D. Idaho June 20, 2014), *aff'd*, 646 F. App'x 523 (9th Cir. 2016)
- Sivak v. Nye, No. 1:24-cv-00193-BLW (D. Idaho June 26, 2024)
- Sivak v. Winmill, No. 1:25-cv-00043-DCN (D. Idaho May 22, 2025)
- Sivak v. Newhouse, No. 1:25-cv-00045-AKB (D. Idaho Apr. 16, 2025)
- Sivak v. Nye, No. 1:25-cv-00632-BLW (D. Idaho Dec. 5, 2025)
- Sivak v. Bevan, No. 1:25-cv-00291-AKB (D. Idaho Jan. 6, 2026)
- Sivak v. Newhouse, No. 1:26-cv-00098-DCN (D. Idaho Mar. 9, 2026)
- Sivak v. Silverman, No. 1:26-cv-00112-BLW (D. Idaho Mar. 11, 2026)
- Sivak v. Brailsford, No. 1:26-cv-00129-BLW (D. Idaho Mar. 11, 2026)
- Sivak v. Nye, No. 1:26-cv-00131-BLW (D. Idaho Mar. 11, 2026)
- Sivak v. Perea, No. 1:26-cv-00121-DCN (D. Idaho Mar. 13, 2026)
- Sivak v. Bress, No. 1:26-cv-00108-DCN (D. Idaho Mar. 17, 2026)
- Sivak v. Public Administrators, No. 1:26-cv-00107-AKB (D. Idaho Mar. 19, 2026)
- Linda R.S. v. Richard D., 410 U.S. 614, 619 (1973)
- Johnson v. Craft, 673 F. Supp. 191, 193 (D. Miss. 1987)
- Julian v. Crystal Springs Rehab. Ctr., 884 F.2d 1395, n.2 (9th Cir. 1989) (unpublished)
- Brinson v. McKeeman, 992 F. Supp. 897, 912 (D. Tex. 1997)
- Scott v. Weinberg, 2007 WL 963990, at *12-13 (D. Wash. Mar. 26, 2007)
- Thomas v. Commonwealth of Virginia, 2005 WL 1074333, at *5 (D. Va. May 5, 2005)
- Foman v. Davis, 371 U.S. 178, 182 (1962)
- Johnson v. Buckley, 356 F.3d 1067, 1077 (9th Cir. 2004)

OPINION

Sivak

PER CURIAM.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

LACEY SIVAK,

Case No. 1:26-cv-00163-DCN Plaintiff,

INITIAL REVIEW ORDER BY

v. SCREENING JUDGE

BARRY G. SILVERMAN; RICHARD PAEZ; and HOLLY

THOMAS,

Defendants. The Clerk of Court conditionally filed Plaintiff Lacey Sivak's "Criminal Complaint of Sedition, Torture, and Obstruction of Justice" because of Plaintiff's status as an inmate. See Dkts. 1, 2. A "conditional filing" means that a plaintiff must obtain authorization from the Court to proceed. Upon screening, the Court must dismiss claims that are frivolous or malicious, fail to state a claim upon which relief may be granted, or seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b). Having reviewed the record, the Court enters the following Order dismissing this case with prejudice.

1. Standards of Law for Screening Complaints

A complaint must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). A complaint fails to state a claim for relief under Rule 8 if the factual assertions in the complaint, taken as true, are insufficient for the reviewing court plausibly "to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). To state an actionable claim, a plaintiff must provide "enough factual matter (taken as true) to suggest" that the defendant committed the unlawful act, meaning that sufficient facts are pled "to raise a reasonable expectation that discovery will reveal evidence of illegal [activity]." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 556 (2007). "A pleading that offers 'labels and conclusions' or 'a formulaic recitation of the elements of a cause of action will not do.'" *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 555). The Court liberally construes the pleadings to determine whether a case should be dismissed for a failure to plead sufficient facts to support a cognizable legal theory or for the absence of a cognizable legal theory. The critical inquiry is whether a constitutional claim, however inartfully pleaded, has an arguable factual and legal basis. See *Jackson v. Arizona*, 885 F.2d 639, 640 (9th Cir. 1989) (discussing Federal Rule of Civil Procedure 12(b)(6)), superseded by statute on other grounds as stated in *Lopez v. Smith*, 203 F.3d 1122, 1130 (9th Cir. 2000). Moreover, even if a complaint meets the pleading requirements, dismissal under §§ 1915 and 1915A is still appropriate if an affirmative defense is an "obvious bar to securing relief on the face of the complaint." *Washington v. Los Angeles Cnty. Sheriff's Dep't*, 833 F.3d 1048, 1056 (9th Cir. 2016) (internal quotation marks omitted).

2. Discussion

Plaintiff is a prisoner in the custody of the Idaho Department of Correction, currently incarcerated at the Idaho State Correctional Center. Plaintiff attempts to bring criminal charges against two individuals. However, Plaintiff has been informed on numerous occasions that, as a private citizen,

he cannot institute a federal criminal action—rather, only the federal government, through the United States Attorney, can do so. See, e.g., *Sivak v. Clerk of Court*, No. 1:24-cv-00030-AKB, 2024 WL 1194460, at *2 (D. Idaho March 20, 2024); *Sivak v. Docket Clerk*, No. 1:24-cv-00021-DCN, 2024 WL 380880, at *2 (D. Idaho Feb. 1, 2024); *Sivak v. Docket Clerk*, No. 1:24-cv-00020-BLW (D. Idaho Feb. 4, 2024); *Sivak v. Docket Clerk*, No. 1:24-cv-00019-BLW, 2024 WL 1071944, at *2 (D. Idaho Mar. 12, 2024); *Sivak v. Winmill*, No. 1:23-cv-00014-AKB, 2023 WL 4600516, at *2 (D. Idaho July 18, 2023); *Sivak v. Duggan*, No. 1:21-CV-00166- BLW, 2021 WL 1881038, at *1 (D. Idaho Apr. 26, 2021); *Sivak v. Doe*, No. 1:19- CV-00234-DCN, 2019 WL 13240389, at *2 (D. Idaho Sept. 11, 2019); *Sivak v. Wilson*, No. 1:93-CV-00081-EJL, 2014 WL 12634293, at *2 (D. Idaho June 20, 2014), *aff'd*, 646 F. App'x 523 (9th Cir. 2016); *Sivak v. Nye*, No. 1:24-cv-00193- BLW (D. Idaho June 26, 2024); *Sivak v. Winmill*, No. 1:25-cv-00043-DCN (D. Idaho May 22, 2025); *Sivak v. Newhouse*, No. 1:25-cv-00045-AKB (D. Idaho April 16, 2025); *Sivak v. Nye*, No. 1:25-cv-00632-BLW (D. Idaho Dec. 5, 2025); *Sivak v. Bevan*, No. 1:25-cv-00291-AKB (D. Idaho Jan. 6, 2026); *Sivak v. Newhouse*, No. 1:26- cv-00098-DCN (D. Idaho March 9, 2026); *Sivak v. Silverman*, No. 1:26-cv-00112-BLW (D. Idaho March 11, 2026); *Sivak v. Brailsford*, No. 1:26-cv-00129-BLW (D. Idaho March 11, 2026); *Sivak v. Nye*, No. 1:26-cv-00131-BLW (D. Idaho March 11, 2026); *Sivak v. Perea*, No. 1:26-cv-00121-DCN (D. Idaho March 13, 2026); *Sivak v. Bress*, No. 1:26-cv- 00108-DCN (D. Idaho March 17, 2026); *Sivak v. Public Administrators*, No. 1:26-cv- 00107-AKB (D. Idaho March 19, 2026). As a result, Plaintiff is well aware that “a private citizen lacks a judicially cognizable interest in the prosecution or nonprosecution of another,” *Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973), and that there is no individual right “to have criminal wrongdoers brought to justice,” *Johnson v. Craft*, 673 F. Supp. 191, 193 (D. Miss. 1987). Accordingly, Plaintiff’s claims are legally frivolous. See *Julian v. Crystal Springs Rehab. Ctr.*, 884 F.2d 1395, n.2 (9th Cir. 1989) (unpublished) (holding a complaint was frivolous “because a complete defense [was] obvious from the pleadings and the deficiency [could not] be cured by amendment”). They are also malicious, because Plaintiff has reasserted claims that he is fully aware have no legal basis. See, e.g., *Brinson v. McKeeman*, 992 F. Supp. 897, 912 (D. Tex. 1997) (“It is malicious per se for a pauper to file successive in forma pauperis suits that duplicate claims made in other pending or previous lawsuits.”); *Scott v. Weinberg*, 2007 WL 963990, at *12-13 (D. Wash. March 26, 2007) (malicious suits include those that are “attempts to vex, injure, or harass the defendants,” that are “plainly abusive of the judicial process or merely repeat[] pending or previously litigated claims,” or that can be characterized as “irresponsible or harassing litigation”); *Thomas v. Commonwealth of Virginia*, 2005 WL 1074333, at *5 (D. Va. May 5, 2005) (repetitive lawsuit was frivolous and malicious where plaintiff was told in his previous suit that he had not stated a claim). Accordingly, the Complaint must be dismissed under § 1915A(b) as frivolous and malicious.

3. Opportunity to Amend

The Court now considers whether to allow Plaintiff an opportunity to amend the Complaint.

Amendments to pleadings are governed by Rule 15 of the Federal Rules of Civil Procedure. That rule states that the Court “should freely give leave when justice so requires.” Fed. R. Civ. P. 15(a) (2). “In the absence of any apparent or declared reason—such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc.,” it is appropriate for a court to grant leave to amend. *Foman v. Davis*, 371 U.S. 178, 182 (1962). Futility alone can justify denying leave to amend. *Johnson v. Buckley*, 356 F.3d 1067, 1077 (9th Cir. 2004). The Court concludes that amendment in this case would be futile. Plaintiff’s claims are subject to dismissal because it is clear from the face of the Complaint that his claims are frivolous and malicious. Therefore, the Court will dismiss the Complaint without leave to amend.

ORDER

IT IS ORDERED that Plaintiff’s Complaint is DISMISSED with prejudice because the claims are frivolous and malicious. See 28 U.S.C. § 1915A(b). aa DATED: April 7, 2026 fy) as US. Disitig Court Judge

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