

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Hodges v. Curtain

Civil Action No. 25-15356 (ZNQ) (RLS) (D.N.J. Dec. 1, 2025) · No. Civil Action No. 25-15356 (ZNQ) (RLS) ·
Decided December 1, 2025

SUMMARY

The United States District Court for the District of New Jersey grants Kevin Hodges’s application to proceed in forma pauperis and screens his complaint under 28 U.S.C. § 1915(e)(2)(B). The court dismisses without prejudice his claims under 42 U.S.C. § 1983 and the Eighth Amendment, concluding that alleged medical misdiagnosis and negligence do not establish deliberate indifference and that the private physician was not alleged to be acting under color of state law. The court declines supplemental jurisdiction over the medical-malpractice claim, denies appointed counsel, and grants leave to amend within thirty days.

CASE DETAILS

COURT	United States District Court for the District of New Jersey
WRITING FOR THE COURT	Zahid N. Quraishi
JURISDICTION	United States District Court for the District of New Jersey
DECIDED	December 1, 2025
DOCKET	Civil Action No. 25-15356 (ZNQ) (RLS)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff filed a pro se civil complaint asserting a federal civil-rights claim and a state-law medical-malpractice claim, together with an application to proceed in forma pauperis and a motion for appointment of counsel. After granting in forma pauperis status, the court screened the complaint under 28 U.S.C. § 1915(e)(2)(B).
STANDARD OF REVIEW	The court applied the Federal Rule of Civil Procedure 12(b)(6) standard during mandatory screening under 28 U.S.C. § 1915(e)(2) (B): factual allegations are accepted as true and reasonable inferences are drawn for the plaintiff, but legal conclusions are not accepted as factual allegations. The complaint must contain sufficient factual matter to state a plausible claim for relief.
PRECEDENTIAL VALUE	nonprecedential

PARTIES

Kevin Hodges v. Andrew Curtain, M.D.

TOPICS

section 1983

medical malpractice

civil rights

civil procedure

PRACTICE AREAS

civil rights

prisoner civil rights

medical malpractice

federal civil procedure

QUESTIONS PRESENTED

1. Whether Plaintiff's allegations that a physician misdiagnosed and mistreated his back injury stated a plausible deliberate-indifference claim under 42 U.S.C. § 1983 and the Eighth Amendment.
2. Whether the complaint alleged that Defendant acted under color of state law when Defendant was a physician employed by a private hospital.
3. Whether the court should exercise supplemental jurisdiction over Plaintiff's state-law medical-malpractice claim after dismissing the federal claim.
4. Whether Plaintiff's motion for appointment of counsel should be granted after dismissal of the complaint.

HOLDINGS

1. Allegations amounting to medical negligence, including a misdiagnosis and resulting mistreatment, do not state a § 1983 deliberate-indifference claim because deliberate indifference requires more than negligence.
2. The complaint failed to state a § 1983 claim because it alleged no facts showing that the private physician's conduct was fairly attributable to the state.
3. After dismissing the sole claim within its original jurisdiction, the court declined supplemental jurisdiction over the state-law medical-malpractice claim and dismissed it without prejudice to refiling in state court.
4. The motion for appointment of counsel was denied in light of dismissal of the complaint.

KEY QUOTATIONS

“Deliberate indifference is a “subjective standard of liability consistent with recklessness” which will be found only where the defendant “knows of and disregards an excessive risk to inmate health or safety.”” (III)

“Here, Plaintiff asserts what essentially amounts to a garden variety case of medical negligence – a misdiagnosis and resulting mistreatment of his back injury.” (III)

“Such allegations, however, are insufficient to state a claim for relief under § 1983 and the Eighth Amendment.” (III)

“As Plaintiff has pled no facts which would support the inference that the sole named Defendant was acting under color of state law, and as he appears instead to be a private physician employed at a private hospital, Plaintiff’s complaint would fail to state a plausible claim for relief for that reason as well.” (III)

FACTUAL BACKGROUND

Plaintiff, a convicted state prisoner, alleged that he suffered a fall in April 2021 and was treated by Defendant, a physician employed at a private hospital, in summer 2021. Plaintiff alleged that Defendant misdiagnosed his back injury as a herniated disc, after which Plaintiff became paralyzed in October 2021; later examination revealed a partially broken spine and spinal-cord compression requiring surgery. Plaintiff asserted deliberate-indifference and medical-malpractice claims, alleging that he discovered the problem by reviewing medical records in July 2023.

PROCEDURAL HISTORY

The United States District Court for the District of New Jersey granted Plaintiff's application to proceed in forma pauperis, screened the complaint sua sponte, and dismissed the federal claim for failure to state a claim. The court declined supplemental jurisdiction over the medical-malpractice claim, dismissed that claim without prejudice to refiling in state court, denied the motion for appointed counsel, and granted leave to amend within thirty days.

DISPOSITION

dismissed

CASES CITED

- Schreane v. Seana, 506 F. App'x 120, 122
- Allah v. Seiverling, 229 F.3d 220, 223
- Phillips v. Cnty. of Allegheny, 515 F.3d 224, 228
- Papasan v. Allain, 478 U.S. 265, 286
- Ashcroft v. Iqbal, 556 U.S. 662, 678
- Bell Atlantic v. Twombly, 550 U.S. 544, 555, 557, 570
- Mala v. Crown Bay Marina, Inc., 704 F.3d 239, 245
- Natale v. Camden County Corr. Facility, 318 F.3d 575, 581-82
- King v. Cnty. of Gloucester, 302 F. App'x 92, 96
- Monmouth Cnty. Corr. Inst. Inmates v. Lanzaro, 834 F.2d 326, 347, cert denied, 486 U.S. 1006 (1988)
- Hairston v. Director Bureau of Prisons, 563 F. App'x 893, 895
- White v. Napoleon, 897 F.2d 103, 110
- Andrews v. Camden Cnty., 95 F. Supp. 2d 217, 228 (D.N.J.)
- Great W. Mining & Mineral Co. v. Fox Rothschild LLP, 615 F.3d 159, 175-76
- Turner v. Children's Hosp. of Philadelphia, 378 F. App'x 124, 126

- Stone v. Martin, 720 F. App'x 132, 136

OPINION

NOT FOR PUBLICATION UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY
KEVIN HODGES, Plaintiff, Civil Action No. 25-15356 (ZNQ) (RLS) v. OPINION ANDREW CURTAIN M.D., Defendant. QURAISHI, District Judge This matter comes before the Court on Plaintiff Kevin Hodges's civil complaint (ECF No. 1) and application to proceed in forma pauperis. (ECF No. 1-1.) Also before the Court is Plaintiff's motion seeking the appointment of counsel.

(ECF No. 3.) Having reviewed the application, this Court finds that in forma pauperis status is warranted in this matter, and Plaintiff's application is therefore granted. Because the application shall be granted, this Court is required to screen Plaintiff's complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) and dismiss any claim which is frivolous, malicious, fails to state a claim for relief, or seeks relief from an immune defendant.

For the reasons set forth below, Plaintiff's complaint shall be dismissed without prejudice and his counsel motion shall be denied in light of the dismissal of the complaint. I. BACKGROUND Plaintiff is a convicted state prisoner confined in the Mid-State Correctional Facility. (ECF No. 1 at 2.) According to the complaint, Plaintiff suffered a "bad fall" in April 2021, for which he received treatment from Defendant in the summer of 2021.

(Id. at 5.) According to Plaintiff, Defendant misdiagnosed a back injury as a herniated disc, and as a result in October 2021, Plaintiff became paralyzed. (Id.) Plaintiff was thereafter properly diagnosed with a partially broken spine and a spinal cord compression, requiring immediate surgery in late 2021. (Id. at 5-6.) Plaintiff asserts that he became aware of this issue by reading medical records in July 2023.

(Id.) Plaintiff now seeks to raise a federal civil rights claim and a medical malpractice claim against Defendant, a doctor at St. Francis Hospital. (Id.) II. LEGAL STANDARD Because Plaintiff shall be granted in forma pauperis status, this Court is required to screen his complaint pursuant to 28 U.S.C. § 1915(e)(2)(B). Pursuant to the statute, this Court must sua sponte dismiss any claim that is frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief.

Id. "The legal standard for dismissing a complaint for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) is the same as that for dismissing a complaint pursuant to Federal Rule of Civil Procedure 12(b)(6)." Schreane v. Seana, 506 F. App'x 120, 122 (3d Cir. 2012) (citing Allah v. Seiverling, 229 F.3d 220, 223 (3d Cir. 2000)).

In deciding a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6), a district court is required to accept as true all factual allegations in the complaint and draw all reasonable inferences from those

allegations in the light most favorable to the plaintiff, see *Phillips v. Cnty. of Allegheny*, 515 F.3d 224, 228 (3d Cir. 2008), but need not accept as true legal conclusions couched as factual allegations.

Papasan v. Allain, 478 U.S. 265, 286 (1986). A complaint need not contain “detailed factual allegations” to survive a motion to dismiss, but must contain “more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A complaint “that offers ‘labels and conclusions’ or ‘a formulaic recitation of the elements of a cause of action will not do,’” and a complaint will not “suffice” if it provides only “‘naked assertion[s]’ devoid of ‘further factual enhancement.’” *Id.* (quoting *Bell Atlantic v. Twombly*, 550 U.S. 544, 555, 557 (2007)). “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.’” *Id.* (quoting *Twombly*, 550 U.S. at 570). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* (quoting *Twombly*, 550 U.S. at 556).

A complaint that provides facts “merely consistent with” the defendant’s liability it “stops short of the line between possibility and plausibility” and will not survive review under Rule 12(b)(6). *Id.* (quoting *Twombly*, 555 U.S. at 557). While pro se pleadings are to be liberally construed in conducting such an analysis, pro se litigants must still “allege sufficient facts in their complaints to support a claim.” *Mala v. Crown Bay Marina, Inc.*, 704 F.3d 239, 245 (3d Cir.

2013). III. DISCUSSION In his complaint, Plaintiff seeks to raise medical malpractice and deliberate indifference to medical needs claims against Defendant Curtain, a doctor employed at a private hospital who provided him with treatment. Turning first to Plaintiff’s civil rights claims, to raise a medical claim under 42 U.S.C. § 1983, a plaintiff must plead facts indicating that a state actor was deliberately indifferent to his medical needs.

See *Natale v. Camden County Corr. Facility*, 318 F.3d 575, 581-82 (3d Cir. 2003). Deliberate indifference is a “subjective standard of liability consistent with recklessness” which will be found only where the defendant “knows of and disregards an excessive risk to inmate health or safety.” *Id.* at 582 (internal quotations omitted). Deliberate indifference therefore requires more than mere negligence.

See *King v. Cnty. of Gloucester*, 302 F. App’x 92, 96 (3d Cir. 2008). A medical need will be considered sufficiently serious to support a constitutional claim where that need “has been diagnosed as requiring treatment or is so obvious that a lay person would easily recognize the necessity of a doctor’s attention.” *Monmouth Cnty. Corr. Inst. Inmates v. Lanzaro*, 834 F.2d 326, 347 (3d Cir.

1987), cert denied, 486 U.S. 1006 (1988). Where a prisoner has received treatment, he may generally therefore not show deliberate indifference by asserting only his disagreement or dissatisfaction with the treatment he received. See *Hairston v. Director Bureau of Prisons*, 563 F. App'x 893, 895 (3d Cir. 2014); *White v. Napoleon*, 897 F.2d 103, 110 (3d Cir. 1990); *Andrews v. Camden Cnty.*, 95 F. Supp. 2d 217, 228 (D.N.J.).

2000). Here, Plaintiff asserts what essentially amounts to a garden variety case of medical negligence – a misdiagnosis and resulting mistreatment of his back injury. Such allegations, however, are insufficient to state a claim for relief under § 1983 and the Eighth Amendment. See *Natale*, 318 F.3d at 581-82; *Hairston*, 563 F. App'x at 895; *King*, 302 F. App'x at 96; *White*, 897 F.2d at 110.

Plaintiff thus fails to state a plausible claim for relief under federal civil rights laws. Even were this not the case, however, Plaintiff's federal claims would suffer a further deficiency – such claims can only be raised against those acting under color of state law, physicians employed by private hospitals are generally not proper defendants in a federal civil rights matter.

See, e.g., *Great W. Mining & Mineral Co. v. Fox Rothschild LLP*, 615 F.3d 159, 175-76 (3d Cir. 2010) (section 1983 liability requires defendant “acted under color of state law”); *Turner v. Children's Hosp. of Philadelphia*, 378 F. App'x 124, 126 (3d Cir. 2010) (private medical providers are not proper civil rights defendants without facts showing their actions were “fairly attributable to the state”).

As Plaintiff has pled no facts which would support the inference that the sole named Defendant was acting under color of state law, and as he appears instead to be a private physician employed at a private hospital, Plaintiff's complaint would fail to state a plausible claim for relief for that reason as well.

In his remaining claim, Plaintiff asserts a state law claim for medical malpractice. Because this Court has already dismissed the sole claim over which it has original jurisdiction, however, this Court must decline to supplemental jurisdiction over this claim. See *Stone v. Martin*, 720 F. App'x 132, 136 (3d Cir. 2017); see also 28 U.S.C. § 1367(c)(3).

As this Court declines supplemental jurisdiction over Plaintiff's medical malpractice claim, that claim is dismissed without prejudice to Plaintiff refiling that claim in state court. Finally, because this Court will dismiss Plaintiff's complaint in its entirety, Plaintiff's motion seeking appointed counsel (ECF No. 3) is denied. IV. CONCLUSION For the reasons expressed above, Plaintiff's application to proceed in forma pauperis (ECF No. 1-1) is GRANTED; and Plaintiff's complaint (ECF No. 1) is DISMISSED WITHOUT PREJUDICE for failure to state a claim for which relief may be granted.

Plaintiff is granted leave to file an amended complaint within thirty days. An order consistent with this Opinion will be entered. /s/ Zahid N. Quraishi ZAHID N. QURAISHI, UNITED STATES DISTRICT JUDGE