

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA

Riley Anderson v. Osburt John Lorenzo, et al.

Anderson · No. 3:25-cv-00094-SLG · Decided June 1, 2026

SUMMARY

The United States District Court for the District of Alaska grants motions to dismiss claims against state social workers arising from alleged failures to protect a child from abuse by his stepfather. The court holds that the complaint does not plausibly allege a special-relationship or state-created-danger exception to the general rule recognized in *DeShaney*, and declines supplemental jurisdiction over state-law emotional-distress claims. The court dismisses official-capacity claims with prejudice but grants leave to file a second amended complaint.

CASE DETAILS

COURT	United States District Court for the District of Alaska
WRITING FOR THE COURT	Sharon L. Gleason
JURISDICTION	United States District Court for the District of Alaska
DECIDED	June 1, 2026
DOCKET	3:25-cv-00094-SLG
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff brought Fourteenth Amendment due process claims under 42 U.S.C. § 1983 and state-law intentional and negligent infliction of emotional distress claims. Defendants Lorenzo and Penner moved to dismiss under Federal Rule of Civil Procedure 12(b)(6).
STANDARD OF REVIEW	Under Rule 12(b)(6), the court accepted well-pleaded factual allegations as true and determined whether the complaint contained sufficient factual matter to state a plausible claim for relief. Conclusory allegations and legal conclusions presented as factual allegations were not accepted as true.
PRECEDENTIAL VALUE	unpublished
PARTIES	Riley Anderson v. Osburt John Lorenzo, Brian Penner, Tricia Tank

TOPICS

- motions to dismiss
- due process
- section 1983
- civil procedure
- negligent infliction of emotional distress

PRACTICE AREAS

civil procedure

constitutional law

civil rights

torts

QUESTIONS PRESENTED

1. Whether Plaintiff stated a Fourteenth Amendment due process claim under the state-created-danger exception by alleging that Defendants affirmatively placed him in a position of greater danger from his stepfather.
2. Whether Plaintiff stated a substantive due process claim by alleging conduct sufficiently egregious to shock the conscience or demonstrate deliberate indifference.
3. Whether Plaintiff's official-capacity claims against Lorenzo and Penner were properly dismissed where Plaintiff sought no injunctive relief and conceded dismissal.
4. Whether the court should exercise supplemental jurisdiction over Plaintiff's state-law IIED and NIED claims after dismissing the federal claims.
5. Whether Plaintiff should be granted leave to amend.

HOLDINGS

1. Plaintiff failed to state a due process claim because the alleged conduct consisted principally of omissions, investigative findings, reliance on the safety plan, and allowing Plaintiff to remain in circumstances he already faced; the allegations did not plausibly show that Defendants affirmatively created or enhanced the danger.
2. Plaintiff failed to allege conduct that was deliberate indifference or that otherwise shocked the conscience.
3. Plaintiff's claims against Lorenzo and Penner in their official capacities were dismissed with prejudice because Plaintiff conceded that those claims should be dismissed and was not seeking injunctive relief.
4. The court declined to exercise supplemental jurisdiction over Plaintiff's IIED and NIED claims after dismissing all claims within its original federal-question jurisdiction.
5. Plaintiff was granted leave to file a second amended complaint because amendment was not clearly futile, despite the court's view that amendment was likely futile.

KEY QUOTATIONS

"To survive a motion to dismiss [under Rule 12(b)(6)], a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" (at 8)

"As a general matter, then, [the Supreme Court] conclude[d] that a State's failure to protect an individual against private violence simply does not constitute a violation of the Due Process Clause." (at 10)

"Here, Plaintiff has not alleged affirmative acts by Defendants that plausibly state a claim for relief under the Due Process Clause." (at 14-15)

"IT IS ORDERED that Defendants' Motions to Dismiss at Docket 19 and Docket 20 are each GRANTED and

that Plaintiff is accorded leave to amend.” (at 19)

FACTUAL BACKGROUND

In January 2013, when Plaintiff was a child living in Anchorage, his stepfather slapped him and left red marks. Defendant Lorenzo, an Alaska Office of Children's Services social worker, investigated, concluded that the case was substantiated but that no further intervention was needed because Plaintiff's mother was protective, and implemented a safety plan; Defendant Penner reviewed and assented to that determination. Plaintiff and his family moved to New York about a month later, and Plaintiff later alleged additional abuse by his stepfather in New York and Texas. Plaintiff claimed that Defendants' actions and omissions violated due process by exposing him to a state-created danger and also caused emotional distress.

PROCEDURAL HISTORY

The motions to dismiss were filed after Plaintiff filed an amended verified complaint. Defendant Tank had not appeared, and the Clerk had entered default against her. The court granted Lorenzo's and Penner's motions, dismissed their official-capacity claims with prejudice, dismissed the federal due process claims for failure to state a claim, declined supplemental jurisdiction over the state-law claims, and granted leave to amend within thirty days.

DISPOSITION

other

CASES CITED

- Doe v. Lawrence Livermore National Laboratory, 131 F.3d 836, 839 (9th Cir. 1997)
- Will v. Michigan Department of State Police, 491 U.S. 58, 70 (1989)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007)
- In re Tracht Gut, LLC, 836 F.3d 1146, 1150 (9th Cir. 2016)
- Gordon v. City of Oakland, 627 F.3d 1092, 1094 (9th Cir. 2010)
- Albrecht v. Lund, 845 F.2d 193, 195 (9th Cir. 1988)
- Schreiber Distributing Co. v. Serv-Well Furniture Co., 806 F.2d 1393, 1401 (9th Cir. 1986)
- DeShaney v. Winnebago County Department of Social Services, 489 U.S. 189, 193, 195-201 (1989)
- Youngberg v. Romeo, 457 U.S. 307, 317 (1982)
- Hernandez v. City of San Jose, 897 F.3d 1125, 1129, 1133 (9th Cir. 2018)
- Kennedy v. City of Ridgefield, 439 F.3d 1055, 1061, 1063 (9th Cir. 2006)
- Munger v. City of Glasgow Police Department, 227 F.3d 1082, 1086 (9th Cir. 2000)
- Murguia v. Langdon, 61 F.4th 1096, 1100-05, 1108, 1112-17 (9th Cir. 2023)
- Penilla v. City of Huntington Park, 115 F.3d 707, 710 (9th Cir. 1997)
- Gantt v. City of Los Angeles, 717 F.3d 702, 707 (9th Cir. 2013)

- *Wilkinson v. Torres*, 610 F.3d 546, 554 (9th Cir. 2010)
- *Royal Canin U.S.A., Inc. v. Wullschleger*, 604 U.S. 22, 31-32 (2025)
- *United Mine Workers v. Gibbs*, 383 U.S. 715, 725-727 (1966)
- *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1051-52 (9th Cir. 2003)
- *Owens v. Kaiser Foundation Health Plan, Inc.*, 244 F.3d 708, 712 (9th Cir. 2001)
- *Foman v. Davis*, 371 U.S. 178, 182 (1962)
- *Sonoma County Association of Retired Employees v. Sonoma County*, 708 F.3d 1109, 1117 (9th Cir. 2013)
- *Sharkey v. O'Neal*, 778 F.3d 767, 774 (9th Cir. 2015)
- *Lacey v. Maricopa County*, 693 F.3d 896, 928 (9th Cir. 2012) (en banc)
- *Chubb Custom Insurance Co. v. Space Systems/Loral, Inc.*, 710 F.3d 946, 973 n.14 (9th Cir. 2013)

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