

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Gregory Wherry v. Jeff Lynch, et al.

Wherry v. Lynch, No. 2:25-cv-0429 CKD P (E.D. Cal. Sept. 9, 2025) · No. 2:25-cv-0429 CKD P · Decided
September 9, 2025

SUMMARY

The United States District Court for the Eastern District of California dismisses Gregory Wherry’s amended 42 U.S.C. § 1983 complaint for failure to state a claim. The court grants plaintiff one final opportunity to file a complete second amended complaint within thirty days and warns that failure to do so will result in a recommendation that the action be dismissed.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Carolyn K. Delaney
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	September 9, 2025
DOCKET	2:25-cv-0429 CKD P
DISPOSITION	dismissed
PROCEDURAL POSTURE	Screening of a state prisoner’s amended complaint under 28 U.S.C. § 1915A after the original complaint had been dismissed with leave to amend.
STANDARD OF REVIEW	Mandatory screening under 28 U.S.C. § 1915A; the complaint must be dismissed if it is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from an immune defendant.
PRECEDENTIAL VALUE	unpublished
PARTIES	Gregory Wherry v. Jeff Lynch, Boballa, Dr. Hlaing, Doe defendants

TOPICS

- prisoners rights
- section 1983
- civil rights
- pleadings
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the amended complaint stated a cognizable claim under 42 U.S.C. § 1983 against the named prison officials.
2. Whether the amended complaint stated an Eighth Amendment deliberate-indifference claim based on medical care.
3. Whether the action could proceed against unidentified Doe defendants.
4. Whether plaintiff should receive another opportunity to amend.

HOLDINGS

1. The amended complaint failed to state a claim against Lynch and Bobbala because it alleged no specific facts establishing an affirmative link between either defendant's actions and the claimed constitutional deprivation.
2. The amended complaint failed to state an Eighth Amendment medical-care claim because it did not allege facts showing that Dr. Hlaing denied or delayed care for a serious medical need or acted with deliberate indifference.
3. The action could not proceed against unidentified Doe defendants because they could not be served with process.
4. Plaintiff was granted one final opportunity, for thirty days, to file a complete second amended complaint complying with the Civil Rights Act, the Federal Rules of Civil Procedure, and the Local Rules of Practice.

KEY QUOTATIONS

“This action cannot proceed against “doe” defendants as they cannot be served with process.” (at 2)

“There can be no liability under 42 U.S.C. § 1983 unless there is some affirmative link or connection between a defendant’s actions and the claimed deprivation.” (at 2)

“Plaintiff fails to point to any facts suggesting Dr. Hlaing denied or delayed any medical care for plaintiff and plaintiff does not identify what care, if any, was delayed or denied.” (at 2)

FACTUAL BACKGROUND

Plaintiff is a state prisoner who alleged civil-rights violations by prison officials and inadequate medical care. He named Warden Lynch, Chief Medical Executive Bobbala, Dr. Hlaing, and unidentified Doe defendants. The amended complaint did not identify conduct by Lynch or Bobbala linking them to a constitutional deprivation and did not allege that Dr. Hlaing denied or delayed medical care for a serious medical need.

PROCEDURAL HISTORY

Plaintiff, a state prisoner proceeding pro se under 42 U.S.C. § 1983, filed an amended complaint after the court dismissed his original complaint on February 27, 2025, with leave to amend. The court screened the amended complaint, found that it failed to state a cognizable claim against the identified defendants and could not proceed against Doe defendants, dismissed the amended complaint, and granted plaintiff one final opportunity to amend.

DISPOSITION

dismissed

CASES CITED

- Ellis v. Cassidy, 625 F.2d 227 (9th Cir. 1980)
- Rizzo v. Goode, 423 U.S. 362 (1976)
- Ivey v. Board of Regents, 673 F.2d 266, 268 (9th Cir. 1982)
- Estelle v. Gamble, 429 U.S. 97, 104-05 (1976)
- Jett v. Penner, 439 F.3d 1091, 1096 (9th Cir. 2006)
- Hallett v. Morgan, 296 F.3d 732, 744 (9th Cir. 2002)
- Lopez v. Smith, 203 F.3d 1122, 1131-32 (9th Cir. 2000)

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