

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
WISCONSIN

**Andrew E. Diaz v. NP Ginger B. Randolph, Kristin A. Vasquez,
Warden Robert Miller, and Racine Correctional Institution**

No. 25-cv-1908-bhl (E.D. Wis. Jan. 20, 2026) · No. 25-cv-1908-bhl · Decided January 20, 2026

SUMMARY

The United States District Court for the Eastern District of Wisconsin grants Andrew Diaz leave to proceed in forma pauperis and screens his § 1983 complaint concerning allegedly inadequate medical care for severe back pain and medication side effects. The court permits an Eighth Amendment deliberate-indifference claim to proceed against Nurse Practitioner Ginger B. Randolph, while dismissing claims against Kristin Vasquez and Robert Miller and terminating Racine Correctional Institution as a defendant. The order directs service on Randolph and addresses collection of the remaining filing fee.

CASE DETAILS

COURT	United States District Court for the Eastern District of Wisconsin
WRITING FOR THE COURT	Brett H. Ludwig
JURISDICTION	United States District Court for the Eastern District of Wisconsin
DECIDED	January 20, 2026
DOCKET	25-cv-1908-bhl
DISPOSITION	other
PROCEDURAL POSTURE	Prisoner civil-rights action under 42 U.S.C. § 1983; the court screened the complaint under 28 U.S.C. § 1915A and ruled on the plaintiff's motion to proceed in forma pauperis.
STANDARD OF REVIEW	Under 28 U.S.C. § 1915A, the court must dismiss a prisoner's complaint or portion of a complaint that is frivolous, malicious, fails to state a claim, or seeks monetary relief from an immune defendant. The complaint must satisfy Federal Rule of Civil Procedure 8(a)(2) and state a plausible claim for relief.
PRECEDENTIAL VALUE	unpublished district-court screening order

TOPICS

prisoners rights

cruel and unusual punishment

section 1983

pleadings

civil procedure

PRACTICE AREAS

prisoner civil rights

constitutional law

civil procedure

corrections and medical care

QUESTIONS PRESENTED

1. Whether Diaz plausibly stated an Eighth Amendment deliberate-indifference claim against NP Ginger B. Randolph based on her alleged persistence with a medication despite knowledge of serious side effects.
2. Whether Diaz stated claims against Kristin Vasquez and Robert Miller based on the allegations in the complaint.
3. Whether Racine Correctional Institution is a person subject to suit under 42 U.S.C. § 1983.
4. Whether Diaz should be granted leave to proceed without prepaying the full filing fee.

HOLDINGS

1. Diaz stated a plausible Eighth Amendment claim against NP Randolph because the allegations that she persisted with a medication known to pose a serious risk, and ignored subsequent reports of serious side effects, required further factual development to determine whether her conduct constituted deliberate indifference.
2. Diaz failed to state claims against Vasquez and Miller because the complaint did not allege what either defendant did or failed to do to violate his rights, and supervisory liability cannot be based solely on respondeat superior.
3. Racine Correctional Institution cannot be sued under § 1983 because it is not a person within the meaning of the statute.
4. Diaz was granted leave to proceed without prepaying the full filing fee, subject to payment of the full fee over time through deductions from his prison trust account.

KEY QUOTATIONS

“The Court uses a two-part test to evaluate whether medical care amounts to cruel and unusual punishment; it asks: 1) “whether a plaintiff suffered from an objectively serious medical condition” and 2) “whether the individual defendant was deliberately indifferent to that condition.””

“Diaz states a claim against NP Rudolph based on allegations that she persisted with a medication that she knew posed a serious risk of harm to Diaz.”

“The complaint contains no allegations explaining what Diaz believes these individuals did or did not do to violate his rights.”

“Finally, the Racine Correctional Institution is not a “person” under §1983, so it cannot be sued.”

FACTUAL BACKGROUND

Diaz alleged that he had suffered severe back pain since a 2017 injury and had experienced serious side effects from multiple medications. After his transfer to Racine Correctional Institution, NP Ginger B. Randolph prescribed an epilepsy medication used for nerve pain despite Diaz's history of similar side effects; after Diaz reported nausea, dizziness, blackouts, vomiting, and additional blackouts after a dosage reduction, the medication was not cancelled. Diaz alleged that he later blacked out at work, struck his head, required five staples, and suffered disfigurement and loss of vision in his left eye.

PROCEDURAL HISTORY

Andrew Diaz, proceeding pro se and incarcerated, filed a § 1983 complaint alleging constitutionally inadequate medical care and moved to proceed without prepaying the full filing fee. The court granted in forma pauperis status, dismissed the claims against Kristin Vasquez and Robert Miller for failure to allege their personal involvement, dismissed Racine Correctional Institution because it is not a person suable under § 1983, and permitted the claim against NP Ginger B. Randolph to proceed for service and further development.

DISPOSITION

other

CASES CITED

- Gabb v. Wexford Health Sources, Inc., 945 F.3d 1027, 1033 (7th Cir. 2019)
- Pyles v. Fahim, 771 F.3d 403, 408 (7th Cir. 2014)
- Petties v. Carter, 836 F.3d 722, 727-28 (7th Cir. 2016) (en banc)
- Whiting v. Wexford Health Sources, Inc., 839 F.3d 658, 662 (7th Cir. 2016)
- Vance v. Peters, 97 F.3d 987, 992 (7th Cir. 1996)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555-56, 570 (2007)
- Gentry v. Duckworth, 65 F.3d 555, 561 (7th Cir. 1995)
- Will v. Mich. Dep't of State Police, 491 U.S. 58, 64 (1989)