

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Grzeslo v. Phillips

Grzeslo · No. 1:24-cv-0615 JLT SAB (PC) · Decided February 26, 2025

SUMMARY

The United States District Court for the Eastern District of California adopted the magistrate judge’s findings and recommendations and dismissed James Grzeslo’s second amended complaint without leave to amend. The court held that the complaint did not allege sufficient facts to establish deliberate indifference to serious medical needs and noted that Plaintiff had no private right of action under California law for the alleged unauthorized practice of medicine. The court directed the Clerk of Court to close the case.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jennifer L. Thurston
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	February 26, 2025
DOCKET	1:24-cv-0615 JLT SAB (PC)
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's findings and recommendations de novo after plaintiff objected to the recommendation that his second amended prisoner civil-rights complaint be dismissed at screening for failure to state a cognizable claim.
STANDARD OF REVIEW	De novo review under 28 U.S.C. § 636(b)(1); pleading sufficiency at screening is evaluated under the standards applicable to Rule 12(b)(6).
PRECEDENTIAL VALUE	Unpublished district court order; precedential status unknown.
PARTIES	James Grzeslo v. Bryan D. Phillips, Idalberto Zaldivar-Galves

TOPICS

- prisoners rights
- section 1983
- motions to dismiss
- civil procedure
- health law

PRACTICE AREAS

prisoner civil rights

constitutional torts

medical care litigation

federal civil procedure

QUESTIONS PRESENTED

1. Whether the second amended complaint alleged sufficient facts to state a cognizable deliberate-indifference claim concerning medical care.
2. Whether the plaintiff's California-law claim concerning the alleged unauthorized practice of medicine was legally viable.
3. Whether further leave to amend should be granted.

HOLDINGS

1. The complaint failed to state a cognizable deliberate-indifference claim because it alleged unsupported conclusions and disagreement with treatment, but did not allege facts showing that the defendant acted with deliberate indifference to plaintiff's medical needs.
2. At the screening stage, the court determines whether the plaintiff stated a claim based on the allegations of the complaint, applying the standards of Rule 12(b)(6).
3. Further leave to amend was denied because amendment would be futile after plaintiff had already received specific instructions and failed to provide facts curing the deficiencies.
4. The court adopted the finding that plaintiff had no private right of action under California law for the alleged unauthorized practice of medicine.

KEY QUOTATIONS

“despite previous advisement and amendment, Plaintiff continues to present unsupported conclusory assertions of denial of medical treatment and/or assistance.” (at 1)

“The allegations merely suggest that Plaintiff disagrees with the medication and treatment being provided or not provided,” (at 1)

“the Court concludes the Findings and Recommendations are supported by the record and by proper analysis.” (at 2)

FACTUAL BACKGROUND

Grzeslo, an incarcerated person housed at the Substance Abuse Treatment Facility and State Prison, alleged that Dr. Idalberto Zaldivar-Galves was deliberately indifferent to his serious medical needs. He described numerous medical conditions and asserted that he disagreed with medication, treatment, recommendations, or lack of treatment. He also sought to assert a California-law claim based on the alleged unauthorized practice of medicine.

PROCEDURAL HISTORY

James Grzeslo filed a second amended complaint alleging deliberate indifference to serious medical needs and an unauthorized-practice-of-medicine claim. The magistrate judge screened the complaint under 28 U.S.C. § 1915A(a), found the allegations insufficient, concluded further amendment would be futile, and recommended dismissal. After Grzeslo objected, the district court conducted de novo review, adopted the findings and recommendations, dismissed the complaint without leave to amend, and directed the Clerk to close the case.

DISPOSITION

dismissed

CASES CITED

- Toguchi v. Chung, 391 F.3d 1051, 1057 (9th Cir. 2004)
- Estelle v. Gamble, 429 U.S. 97, 107 (1977)
- Wilhelm v. Rotman, 680 F.3d 1113, 1121 (9th Cir. 2012)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)

OPINION

(PC) Grzeslo v. Phillips

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 JAMES GRZESLO, Case No. 1:24-cv-0615 JLT SAB (PC) 12 Plaintiff, ORDER
ADOPTING FINDINGS AND

RECOMMENDATION, DISMISSING THE

13 v. ACTION FOR FAILURE TO STATE A

COGNIZABLE CLAIM, AND DIRECTING

14 BRYAN D. PHILLIPS, et al., THE CLERK OF COURT TO CLOSE THIS

CASE

15 Defendants. (Doc. 13) 16 17 James Grzeslo seeks to hold Dr. Idalberto Zaldivar-Galves liable
for deliberate 18 indifference to Plaintiff’s serious medical needs while housed at the Substance
Abuse Treatment 19 Facility and State Prison. (Doc. 11.) The assigned magistrate judge screened
Plaintiff’s second 20 amended complaint pursuant to 28 U.S.C. § 1915A(a). (Doc. 13.) 21 The
magistrate judge found: “despite previous advisement and amendment, Plaintiff 22 continues to
present unsupported conclusory assertions of denial of medical treatment and/or 23 assistance.”
(Doc. 13 at 4.) The magistrate judge observed, “The allegations merely suggest that 24 Plaintiff
disagrees with the medication and treatment being provided or not provided,” and such 25
disagreements “do not rise to the level of a constitutional violation.” (Id.) To the extent Plaintiff 26
also sought to hold Dr. Zaldivar-Galves liable for unauthorized practice of medicine, the 27

magistrate judge found such a claim was not viable because “under California law, there is no 28 private right of action for the unauthorized practice of law.” (Id. at 4.) Therefore, the magistrate 1 judge found Plaintiff failed to state a cognizable claim and recommended the Court dismiss the 2 complaint. (Id. at 4-5.) In addition, the magistrate judge found further leave to amend was futile, 3 because Plaintiff was previously given “specific instructions from the Court” and failed to 4 provide additional information about his claims. (Id. at 6.) 5 Plaintiff filed objections to the Findings and Recommendations (Doc. 14), followed by a 6 “finalization” of his objections “on November 12, 2024 (Doc. 17). Plaintiff contends the 7 magistrate judge committed judicial misconduct by posting the Findings and Recommendations 8 on the Internet—including Google and Lexis—prior to Plaintiff receiving the document through 9 the prison’s legal mail system. (Doc. 14 at 2, 5, 16.) In addition, Plaintiff asserts that he “is more 10 than highly qualified to ... question Defendant” and his medical treatment, because Plaintiff “is 11 nearing his 50th anniversary in the medical-health care profession in the field of forensic 12 pathology and science.” (Id. at 3, 4.) Plaintiff also recounts his medical history, including: a 13 dental procedure that caused a gran mal seizure, stroke, Bell’s Palsy, and partial paralysis; 14 cervical radiculopathy; history of seizures for which he does not receive prescription medication; 15 hearing loss since 1983; Parkinson diagnosis that Plaintiff attributes to Agent Orange exposure 16 and toxic water at Camp Lejeune; edema in his right lower extremity; swollen right testicle; and 17 age-related glaucoma and cataracts. (Id. at 6-8.) According to Plaintiff, the magistrate judge 18 erred by finding the allegations at most amount to negligence. (Id. at 9.) In support of his 19 assertion that Defendant was deliberately indifferent, Plaintiff refers to several other actions 20 against Defendant filed in this Court and the treatment of another prisoner who is now deceased. 21 (Id. at 11-15; Doc. 17 at 2.) 22 As an initial matter, Plaintiff’s assertion of misconduct by the magistrate judge and Court 23 is based upon a misconception related to the Court’s electronic filing and service process. 24 Neither the magistrate judge nor the Court posted the Findings and Recommendations on the 25 identified websites. The Court merely electronically files its documents and does not control the 26 actions of third parties—such as Google and LexisNexis—who may access the public dockets, 27 retrieve documents, and post the rulings. Consequently, Plaintiff’s allegations of misconduct are 28 plainly unfounded. 1 Plaintiff’s objections do not meaningfully respond to the magistrate judge’s finding that 2 he fails to state a cognizable claim for deliberate indifference by Defendant. Although Plaintiff 3 recites a significant medical history and numerous diagnoses, the magistrate judge did not find 4 that Plaintiff lacked a serious medical need. Rather, the magistrate judge found Plaintiff failed to 5 allege facts sufficient to support a conclusion that Defendant exhibited deliberate indifference to 6 the identified medical needs. To the extent Plaintiff contends that he is qualified to question the 7 treatment (as well as recommendations to other doctors or lack of treatment) by Defendant 8 because of his experience in the health care profession, even differences of opinion between 9 medical professionals generally do not amount to deliberate indifference. See *Toguchi v. Chung*, 10 391 F.3d 1051, 1057

(9th Cir. 2004). An argument that more should have been done to diagnose 11 or treat a condition generally reflects such a difference of opinion and does not establish 12 deliberate indifference. *Estelle v. Gamble*, 429 U.S. 97, 107 (1977). 13 The cases cited by Plaintiff do not support a conclusion that he alleged sufficient facts to 14 support a claim against Defendant. The Court's determination of whether a plaintiff stated a 15 cognizable claim at the screening stage is constrained to the allegations of the complaint. See 16 *Wilhelm v. Rotman*, 680 F.3d 1113, 1121 (9th Cir. 2012) (explaining that a determination of 17 whether a plaintiff states a claim under Section 1915A applies the standards of Rule 12(b)(6) of 18 the Federal Rules of Civil Procedure); see also *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). 19 Toward this end, the cases referenced are immaterial to the Court's analysis concerning the 20 alleged deliberate indifference towards Plaintiff and the objections on these grounds are 21 unavailing. Plaintiff does not identify any facts in his second amended complaint to support a 22 claim for deliberate indifference. Finally, the Court notes Plaintiff does not dispute—nor 23 otherwise address—the finding of the magistrate judge that he does not have a private right of 24 action for his claim under California law related to the alleged unauthorized practice of medicine. 25 (See generally Docs. 14, 17.) 26 According to 28 U.S.C. § 636(b)(1), the Court performed a de novo review of this case. 27 Having carefully reviewed the matter, including Plaintiff's objections, the Court concludes the 28 Findings and Recommendations are supported by the record and by proper analysis. 1 Based upon the foregoing, the Court ORDERS: 2 1. The Findings and Recommendations dated September 27, 2024 (Doc. 23) are 3 ADOPTED in full. 4 2. Plaintiff's second amended complaint is DISMISSED without leave to amend, for 5 failure to state a claim. 6 3. The Clerk of Court is directed to close this case. 7 g IT IS SO ORDERED. 9 | Dated: _ February 26, 2025 Cerin | Tower

TED STATES DISTRICT JUDGE

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