

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
VIRGINIA, ROANOKE DIVISION

Michael Paul Addison v. Sgt. W.H. Gill and C/O Hale

Addison · No. 7:25-cv-00060 · Decided March 23, 2026

SUMMARY

The United States District Court for the Western District of Virginia addresses several motions in Michael Paul Addison’s 42 U.S.C. § 1983 action concerning alleged chemical-gas use, strip-cell placement, and failure to intervene. The court grants Defendant Hale’s motion to dismiss, denies Addison’s motion for default judgment against Defendant Gill, grants Gill’s motion for an extension of time, and grants Addison leave in part to amend his complaint. The court reserves ruling on Gill’s motion to dismiss pending the filing of an amended complaint.

CASE DETAILS

COURT	United States District Court for the Western District of Virginia, Roanoke Division
WRITING FOR THE COURT	Thomas T. Cullen
JURISDICTION	United States District Court for the Western District of Virginia, Roanoke Division
DECIDED	March 23, 2026
DOCKET	7:25-cv-00060
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff brought a 42 U.S.C. § 1983 action. The court considered Defendant Hale's Rule 12(b)(6) motion to dismiss, Plaintiff's motion for default judgment against Defendant Gill, Gill's motion for an extension of time to respond, and Plaintiff's motion to amend.
STANDARD OF REVIEW	Under Rule 12(b)(6), the court accepts well-pleaded factual allegations as true, draws reasonable inferences in the plaintiff's favor, and determines whether the complaint states a facially plausible claim. Motions for default judgment are evaluated under Federal Rule of Civil Procedure 55, and post-deadline extensions under Rule 6(b)(1)(B) require excusable neglect. Leave to amend is governed by Rule 15(a) and may be denied for prejudice, bad faith, or futility.
PRECEDENTIAL VALUE	unpublished district court memorandum opinion

PARTIES

Michael Paul Addison v. Sgt. W.H. Gill, C/O Hale

TOPICS

motions to dismiss

motion to amend

default judgment

section 1983

prisoners rights

PRACTICE AREAS

civil rights

prisoner civil rights

civil procedure

constitutional law

pleading practice

QUESTIONS PRESENTED

1. Whether Plaintiff was entitled to default judgment against Gill when he had not first obtained a clerk's entry of default under Rule 55(a).
2. Whether Gill demonstrated excusable neglect warranting an extension of time to respond to the complaint.
3. Whether Plaintiff should be permitted to amend his complaint under Rule 15(a).
4. Whether Plaintiff stated a plausible Eighth Amendment failure-to-intervene claim against Hale under § 1983.
5. Whether the court should rule on Gill's motion to dismiss before Plaintiff filed the permitted amended complaint.

HOLDINGS

1. A plaintiff who has not first sought or obtained a clerk's entry of default under Rule 55(a) may be denied default judgment under Rule 55(b).
2. A court may extend an expired deadline under Rule 6(b)(1)(B) when the failure to act resulted from excusable neglect, considering prejudice, delay, the reason for delay, and good faith.
3. Leave to amend was properly denied as to amendment before resolution of Hale's motion because of undue delay and prejudice, but granted as to amendment concerning Gill because the motion was timely in context and futility could not be determined with certainty.
4. Plaintiff failed to state a plausible § 1983 failure-to-intervene claim against Hale because he did not allege facts showing that Hale knew Gill was violating Plaintiff's constitutional rights or had a reasonable opportunity to prevent the subsequent harm.

KEY QUOTATIONS

"Consistent with these cases, the court finds that Plaintiff's failure to first seek an entry of default from the clerk provides sufficient grounds to deny his motion for default judgment." (MOTION FOR DEFAULT JUDGMENT)

"Accordingly, the court finds it is in the interests of justice to grant Plaintiff's motion to amend in part and allow him leave to file an amended complaint before ruling on Gill's motion to dismiss." (MOTION TO AMEND)

“He has therefore failed to state a claim based on Hale’s failure to intervene.” (DEFENDANT HALE’S MOTION TO DISMISS)

FACTUAL BACKGROUND

Plaintiff, a convicted prisoner at Wallens Ridge State Prison, alleged that Sgt. Gill falsely accused him of threatening Gill, after which officers repeatedly sprayed him with chemical gas, placed him in a strip cell, and used ambulatory restraints. Plaintiff alleged that C/O Hale witnessed the accusation and failed to intervene. Plaintiff further alleged that Gill later admitted fabricating the accusation.

PROCEDURAL HISTORY

Gill was served but did not timely respond, and Plaintiff moved for default judgment without first seeking a clerk’s entry of default. Gill subsequently moved to dismiss and sought an extension based on excusable neglect. Plaintiff later moved to amend his complaint. The court denied default judgment, granted Gill’s extension, granted amendment in part, dismissed the claims against Hale, and reserved ruling on Gill’s motion to dismiss pending amendment.

DISPOSITION

other

CASES CITED

- Shelton v. Marshall, 724 F. Supp. 3d 532, 540 (W.D. Va. 2024)
- Hummel v. Hall, 868 F. Supp. 2d 543, 547 (W.D. Va. 2012)
- Ryan v. Homecomings Fin. Network, 253 F.3d 778, 780 (4th Cir. 2001)
- Worsham v. Travel Options, Inc., 678 F. App’x 165 (4th Cir. 2017)
- DIRECTV, Inc. v. Pernites, 200 F. App’x 257, 258 (4th Cir. 2006)
- Worthington v. Rice, No. 3:16-CV-61, 2016 WL 9331275, at *1 (N.D.W. Va. Aug. 19, 2016)
- Green v. Sanchez, No. 2:21-CV-01376-RMG, 2022 WL 2785848, at *1 (D.S.C. June 22, 2022)
- Eagle Fire, Inc. v. Eagle Integrated Controls, Inc., No. 3:06cv264, 2006 WL 1720681, at *5 (E.D. Va. June 20, 2006)
- Colleton Preparatory Acad., Inc. v. Hoover Universal, Inc., 616 F.3d 413, 417 (4th Cir. 2010)
- Smith v. Montalvan, 723 F. Supp. 3d 454, 462–63 (E.D. Va. 2024)
- Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P’ship, 507 U.S. 380, 388, 395 (1993)
- U.S. ex rel. Nicholson v. MedCom Carolinas, Inc., 42 F.4th 185, 197 (4th Cir. 2022)
- ACA Fin. Guar. Corp. v. City of Buena Vista, 917 F.3d 206, 217–18 (4th Cir. 2019)
- Occupy Columbia v. Haley, 738 F.3d 107, 116 (4th Cir. 2013)
- Ashcroft v. Iqbal, 556 U.S. 662, 678–79 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555, 570 (2007)
- E.I. du Pont de Nemours & Co. v. Kolon Indus., Inc., 637 F.3d 435, 448 (4th Cir. 2011)

- Hall v. DIRECTV, LLC, 846 F.3d 757, 765 (4th Cir. 2017)
- Crosby v. City of Gastonia, 635 F.3d 634, 639 (4th Cir. 2011)
- West v. Atkins, 487 U.S. 42, 48 (1988)
- Bowman v. Ozmint, No. 0:08-2517-PMD-PJG, 2009 WL 3065180, at *12 (D.S.C. Sept. 22, 2009), aff'd, 369 F. App'x 416 (4th Cir. 2010)
- Stevenson v. City of Seat Pleasant, Md., 743 F.3d 411, 416–17 (4th Cir. 2014)
- Randall v. Prince George's Cnty., 302 F.3d 188, 203 (4th Cir. 2002)
- Shafer v. Toman, No. 5:21-CV-00014, 2022 WL 4134774, at *5 (W.D. Va. Sept. 12, 2022)

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