

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Arvind Vyas Gopal v. Johnson, et al.

Gopal v. Johnson · No. 2:25-cv-1372-DAD-CKD · Decided October 10, 2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 ARVIND VYAS GOPAL, 2:25-cv-1372-DAD-CKD P 12 Plaintiff, 13 v.
ORDER 14 JOHNSON, et al., 15 Defendants. 16 17 18 Plaintiff Arvind Gopal, a state prisoner,
proceeds without counsel under 42 U.S.C. § 1983 19 and requests to proceed in forma pauperis.
This matter was referred to the undersigned by Local 20 Rule 302.

See 28 U.S.C. § 636(b)(1). Plaintiff's complaint fails to state a claim and must be 21 dismissed.
Plaintiff will have a chance to amend. 22 I. In Forma Pauperis 23 Plaintiff's declaration in support
of the motion to proceed in forma pauperis makes the 24 showing required by 28 U.S.C. §
1915(a).

The motion is granted. By separate order, plaintiff will 25 be assessed an initial partial filing fee in
accordance with the provisions of 28 U.S.C. § 26 1915(b)(1). The order will direct the appropriate
agency to collect the initial partial filing fee 27 from plaintiff's trust account and forward it to the
Clerk of the Court. Thereafter, plaintiff will be 28 obligated for monthly payments of twenty
percent of the preceding month's income credited to 1 plaintiff's prison trust account.

These payments will be forwarded by the appropriate agency to 2 the Clerk of the Court each time
the amount in plaintiff's account exceeds \$10.00 until the filing 3 fee is paid in full. 28 U.S.C. §
1915(b)(2). 4 II. Screening Requirement 5 The court is required to screen complaints brought by
prisoners seeking relief against a 6 governmental entity or officer or employee of a governmental
entity.

28 U.S.C. § 1915A(a). The 7 court must dismiss a complaint or portion thereof if the prisoner has
raised claims that are legally 8 "frivolous or malicious," that fail to state a claim upon which relief
may be granted, or that seek 9 monetary relief from a defendant who is immune from such relief.
28 U.S.C. § 1915A(b)(1), (2). 10 III. Allegations in the Complaint 11 Plaintiff alleges Officer
Johnson failed to prevent an assault by his cell mate on March 8, 12 2024, at Folsom State Prison.

(ECF No. 1 at 1, 3.) Plaintiff had informed C/O Johnson on several 13 occasions he was "not
compatible" with his cellmate but C/O Johnson ignored plaintiff's 14 "request" and "plea for
help." (Id. at 3.) 15 IV. Discussion 16 The allegations are too vague and insufficient to state a
"failure-to-protect" Eighth 17 Amendment violation claim.

To do so, plaintiff must allege facts showing that (1) a prison official's act or omission was objectively, sufficiently serious, and (2) the official was deliberately indifferent to plaintiff's health or safety. *Farmer v. Brennan*, 511 U.S. 825, 834 (1994); *Hearns v. Terhune*, 413 F.3d 1036, 1042 (9th Cir. 2005).

Here, the facts alleged do not show deliberate indifference. Instead, plaintiff's allegations establish that C/O Johnson had no "more than a mere suspicion that an attack will occur[.]" *Berg v. Kincheloe*, 794 F.2d 457, 459 (9th Cir. 1986).

In order to be liable under the Eighth Amendment, a prison official must have known of and disregarded a substantial risk of serious harm to the plaintiff. See *Farmer*, 511 U.S. 25 at 847; *Hearns*, 413 F.3d at 1040. "[S]peculative and generalized fears of harm at the hands of other prisoners do not rise to a sufficiently substantial risk of serious harm to [an inmate's] future health." *Williams v. Wood*, 223 F. App'x 670, 671 (9th Cir.

2007) (citation omitted). 1 V. Leave to Amend 2 Plaintiff is granted leave to amend. See *Weilburg v. Shapiro*, 488 F.3d 1202, 1205 (9th Cir. 2007) ("Dismissal of a pro se complaint without leave to amend is proper only if it is absolutely clear that the deficiencies of the complaint could not be cured by amendment."). This 5 || opportunity to amend is not for the purposes of adding new and unrelated claims.

See *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007). Local Rule 220 requires that an amended complaint be 7 || complete without reference to any prior pleading. See *Loux v. Rhay*, 375 F.2d 55, 57 (9th Cir. 8 | 1967).

In the alternative, if plaintiff does not wish to pursue this case further or cannot fix the 9 || problem identified in this order, then plaintiff may file a notice of voluntary dismissal. 10 VI. — Plain Language Summary for Pro Se Party 11 The following information is meant to explain this order in plain English. This summary 12 | is not intended as legal advice.

13 Your complaint is being dismissed because the facts you alleged do not state a failure to 14 | protect claim. If you choose to file an amended complaint, include more facts showing how each 15 || defendant knew of and disregarded a substantial risk of serious harm to your safety. 16 VU. Conclusion 17 In accordance with the above, IT IS ORDERED as follows: 18 1.

Plaintiff's motion to proceed in forma pauperis (ECF No. 7) is GRANTED. 19 2. Plaintiff's complaint is dismissed with leave to amend. 20 3. Plaintiff is granted thirty days from the date of service of this order to file an amended 21 complaint that complies with the requirements of the Civil Rights Act, the Federal 22 Rules of Civil Procedure, and the Local Rules of Practice.

The amended complaint 23 must bear the docket number assigned this case and must be labeled "Amended 24 Complaint." Failure to file an amended complaint in accordance with this order will

25 result in a recommendation that this action be dismissed. 26 | Dated: October 10, 2025 ☐☐ I /
dle ae 28 || 8, gopal372.scrn UNITED STATES MAGISTRATE JUDGE

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