

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
TEXAS, HOUSTON DIVISION

Cory Anderson v. Wal-Mart Stores Texas, LLC, et al.

Anderson · No. 4:25-CV-137 · Decided March 18, 2026

SUMMARY

The court denied Cory Anderson’s motion to strike exhibits and granted the defendants’ motions to dismiss under Federal Rule of Civil Procedure 12(b)(6). It dismissed with prejudice Anderson’s negligence, gross negligence, and intentional or negligent infliction of emotional distress claims against the Wal-Mart defendants, as well as all claims against the City of Pearland and a police sergeant under 42 U.S.C. § 1983. The court ordered Anderson to show cause why his remaining defamation, false imprisonment, and malicious prosecution claims should not be dismissed as frivolous.

CASE DETAILS

COURT	United States District Court for the Southern District of Texas, Houston Division
WRITING FOR THE COURT	Randy Crane
JURISDICTION	United States District Court for the Southern District of Texas, Houston Division
DECIDED	March 18, 2026
DOCKET	4:25-CV-137
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved to strike exhibits attached to a motion to dismiss. Defendants moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss some or all claims. The district court denied the motion to strike, granted the motions to dismiss the specified claims, dismissed those claims with prejudice, and ordered plaintiff to show cause why the remaining claims should not be dismissed as frivolous.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true and determines whether the complaint and materials properly considered contain sufficient factual matter to state a facially plausible claim. The court generally considers the pleadings and proper attachments, documents incorporated by reference, judicially

	noticeable matters, and documents attached to a motion to dismiss that are referred to in and central to the complaint.
PRECEDENTIAL VALUE	unpublished district court memorandum opinion; nonprecedential value not specified
PARTIES	Cory Anderson v. Wal-Mart Stores Texas, LLC, Walmart, Inc., City of Pearland, Texas, Matthew C. Webb, Darrien Coleman

TOPICS

[motions to dismiss](#)
[pleadings](#)
[civil procedure](#)
[section 1983](#)
[torts](#)

PRACTICE AREAS

[civil procedure](#)
[constitutional law](#)
[civil rights](#)
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QUESTIONS PRESENTED

1. Whether the court could consider the challenged exhibits because they were referred to in or central to the First Amended Complaint.
2. Whether Anderson plausibly pleaded negligence against the Wal-Mart defendants.
3. Whether Anderson plausibly pleaded intentional infliction of emotional distress or negligent infliction of emotional distress against the Wal-Mart defendants.
4. Whether Anderson plausibly pleaded gross negligence against the Wal-Mart defendants.
5. Whether Anderson plausibly pleaded the required elements of his Section 1983 claims against Webb and the City of Pearland.
6. Whether leave to amend should be granted.

HOLDINGS

1. The court may consider documents attached to a motion to dismiss when they are referred to in the complaint and central to the plaintiff's claims; the challenged exhibits met that standard, so the motion to strike was denied.
2. Anderson failed to state a negligence claim because he pleaded only conclusory assertions and did not allege a legally cognizable physical injury distinct from physical manifestations of emotional distress.
3. Anderson failed to state claims for intentional infliction of emotional distress or negligent infliction of emotional distress.
4. Because Anderson failed to state an ordinary negligence claim, he necessarily failed to state a gross-negligence claim.
5. Anderson failed to state his Section 1983 claims against Webb and the City because the First Amended Complaint did not plead facts supporting all required elements, including facts permitting a reasonable

inference of municipal deliberate indifference, an official policy, or a constitutional violation caused by that policy or custom.

6. The court denied leave to amend because the evidence properly before it showed that amendment would be futile.

KEY QUOTATIONS

“To survive a Rule 12(b)(6) motion, the complaint and any other matters properly considered must contain ‘sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” (Section III.A)

“Although IIED has been recognized first and foremost as a ‘gap-filler’ tort, the tort is available to allow recovery in those rare instances in which a defendant intentionally inflicts severe emotional distress in a manner so unusual that the victim has no other recognized theory of redress.” (Section III.B.2)

FACTUAL BACKGROUND

The case arose from an alleged Wal-Mart theft involving sports cards that Anderson allegedly purchased after swapping barcodes at a self-checkout. Wal-Mart investigator Darrien Coleman contacted Pearland police, and Sergeant Matthew Webb initially released Anderson with a citation before later obtaining an arrest warrant after learning of a prior theft conviction. Anderson alleged that Coleman and Webb fabricated statements about the incident and asserted claims based on his arrest, prosecution, emotional distress, and resulting employment and financial losses.

PROCEDURAL HISTORY

Anderson filed suit on January 12, 2025, and later filed a First Amended Complaint asserting fourteen claims against Walmart-related defendants, a police officer, and the City of Pearland. The Wal-Mart defendants moved to dismiss the negligence, intentional or negligent infliction of emotional distress, and gross-negligence claims; the City and Webb moved to dismiss all claims against them. The court denied Anderson's motion to strike exhibits, granted the dismissal motions with prejudice, and ordered Anderson to show cause by April 9, 2026, concerning the remaining defamation, false-imprisonment, and malicious-prosecution claims.

DISPOSITION

other

CASES CITED

- DAC Surgical Partners, P.A. v. United Healthcare Srvs., Inc., No. H-11-1355, 2011 WL 3841946, at *2 (S.D. Tex. Aug. 30, 2011)
- Collins v. Morgan Stanley Dean Witter, 224 F.3d 496, 498 (5th Cir. 2000)
- Samuel v. City of Houston, No. 4:22-CV-2900, 2023 WL 6444888, at *3 (S.D. Tex. Sept. 29, 2023)
- Ashcroft v. Iqbal, 556 U.S. 662, 677-79 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 570 (2007)

- Ford v. Cimarron Ins. Co., 230 F.3d 828, 830 (5th Cir. 2000)
- Greater Hou. Transp. Co. v. Phillips, 801 S.W.2d 523, 525 (Tex. 1990)
- Villafuerte v. United States, No. 7:16-CV-619, 2017 WL 8793751, at *11, *13-*14 (S.D. Tex. Oct. 11, 2017)
- Hoffmann-La Roche Inc. v. Zeltwanger, 144 S.W.3d 438, 447 (Tex. 2004)
- Grost v. United States, 648 F. App'x 459, 461 (5th Cir. 2016)
- GTE Sw., Inc. v. Bruce, 998 S.W.2d 605, 616 (Tex. 1999)
- Fitzpatrick v. Copeland, 80 S.W.3d 297, 302 (Tex. App.—Fort Worth 2002)
- Furniture Procurement Srv., LLP v. Nat'l Container Grp., LLC, No. 4:19-CV-3290, 2022 WL 2479922, at *5 (S.D. Tex. July 5, 2022)
- Whitley v. Hanna, 726 F.3d 631, 638 (5th Cir. 2013)
- Goodman v. Harris County, 571 F.3d 388, 395 (5th Cir. 2009)
- Monell v. Department of Social Services, 436 U.S. 658, 690 (1978)
- Piotrowski v. City of Houston, 237 F.3d 567, 578 (5th Cir. 2001)
- Goins v. Clear Creek Independent School District, No. H-24-3248, 2024 WL 5238663, at *9 (S.D. Tex. Dec. 26, 2024)
- Goldstein v. MCI WorldCom, 340 F.3d 238, 254 (5th Cir. 2003)
- Randall D. Wolcott, M.D., P.A. v. Sebelius, 635 F.3d 757, 763 (5th Cir. 2011)
- Dorsey v. Portfolio Equities, Inc., 540 F.3d 333, 338 (5th Cir. 2008)
- Lone Star Fund V (U.S.), L.P. v. Barclays Bank PLC, 594 F.3d 383, 387 (5th Cir. 2010)