

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

Ryan Christopher Cheatham v. Tim Easley, et al.

Cheatham · No. 25-3241-JWL · Decided December 22, 2025

SUMMARY

The United States District Court for the District of Kansas addresses a pro se prisoner's 42 U.S.C. § 1983 claims alleging excessive force and related Eighth Amendment violations arising from a pepperball deployment at a Kansas correctional facility. The court orders Kansas Department of Corrections officials to prepare a Martinez Report before screening the complaint and denies the plaintiff's motion to appoint counsel without prejudice. The order also establishes procedures governing the report, service, discovery, and further filings.

OPINION

Easley

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF KANSAS

RYAN CHRISTOPHER CHEATHAM,

Plaintiff,

v. CASE NO. 25-3241-JWL

TIM EASLEY, et al., Defendants.

MEMORANDUM AND ORDER

Plaintiff filed this pro se civil rights action under 42 U.S.C. § 1983. Plaintiff is incarcerated at the El Dorado Correctional Facility in El Dorado, Kansas. The Court granted Plaintiff leave to proceed in forma pauperis. The Court assessed a \$23.00 initial partial filing fee calculated under 28 U.S.C. § 1915(b)(1). The initial partial fee was due by December 8, 2025, and has not been paid. The Court finds that the proper processing of Plaintiff's claims cannot be achieved without additional information from appropriate Kansas Department of Corrections ("KDOC") officials. I. Nature of the Matter before the Court Plaintiff alleges that on July 4, 2025, Warden Easley, Major Graham, and Captain Bieberle ordered or approved a use of force on Plaintiff at the Larned State Correctional Facility in Larned, Kansas ("LSCF"). (Doc. 1, at 3.) Plaintiff alleges that his hands were in the air in a submissive position and Officer Cobb ordered the deployment of pepperball projectiles. Id. Plaintiff alleges that Officers Hopkins and Ford were the two active shooters. Id. Plaintiff alleges that he "was facing opposite of the two officers shooting with [his] back facing them and hands up." Id. at 3,

5. Plaintiff alleges that "officers who disagreed with the amount of force used stated there was

over 100 shots.” Id. at 5. These officers stated that once Plaintiff’s hands were up, he should have been told to step to the bean port to be cuffed up or told to get down on the ground. Id. These officers also told Plaintiff that other options were available where Plaintiff did not have a weapon in his hands at the time the shots started. Id. Plaintiff claims that he was bleeding and bruised, and sustained injuries to his back and the back of his head. Id. As Count I, Plaintiff alleges excessive force in violation of the Eighth and Sixth Amendments. Id. at 4. As Count II, Plaintiff alleges cruel and unusual punishment in violation of the Eighth Amendment. Id. As Count III, Plaintiff alleges deliberate indifference in violation of the Eighth Amendment. Id. at 6. Plaintiff names as defendants: Tim Easley, LSCF Warden; (fnu) Graham, LSCF Major; (fnu) Bieberle, LSCF Captain; (fnu) Cobb, Correctional Officer (“CO”) at LSCF; (fnu) Hopkins, LSCF CO; and (fnu) Ford, LSCF CO. For relief, Plaintiff seeks \$500,000 in damages and punitive damages for emotional and mental damages. Id. at 7. II. Statutory Screening of Prisoner Complaints The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or an officer or an employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff has raised claims that are legally frivolous or malicious, that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1)–(2).

“To state a claim under § 1983, a plaintiff must allege the violation of a right secured by the Constitution and laws of the United States, and must show that the alleged deprivation was committed by a person acting under color of state law.” *West v. Atkins*, 487 U.S. 42, 48 (1988) (citations omitted); *Northington v. Jackson*, 973 F.2d 1518, 1523 (10th Cir. 1992). A court liberally construes a pro se complaint and applies “less stringent standards than formal pleadings drafted by lawyers.” *Erickson v. Pardus*, 551 U.S. 89, 94 (2007). In addition, the court accepts all well-pleaded allegations in the complaint as true. *Anderson v. Blake*, 469 F.3d 910, 913 (10th Cir. 2006). On the other hand, “when the allegations in a complaint, however true, could not raise a claim of entitlement to relief,” dismissal is appropriate. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 558 (2007). A pro se litigant’s “conclusory allegations without supporting factual averments are insufficient to state a claim upon which relief can be based.” *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). “[A] plaintiff’s obligation to provide the ‘grounds’ of his ‘entitlement to relief’ requires ‘more than labels and conclusions, and a formulaic recitation of the elements of a cause of action.’” *Twombly*, 550 U.S. at 555 (citations omitted). The complaint’s “factual allegations must be enough to raise a right to relief above the speculative level” and “to state a claim to relief that is plausible on its face.” Id. at 555, 570. The Tenth Circuit Court of Appeals has explained “that, to state a claim in federal court, a complaint must explain what each defendant did to [the pro se plaintiff]; when the defendant did it; how the defendant’s action harmed [the plaintiff]; and, what specific legal right the plaintiff believes the defendant violated.” *Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1163 (10th Cir. 2007). The court “will not supply

additional factual allegations to round out a plaintiff's complaint or construct a legal theory on a plaintiff's behalf." *Whitney v. New Mexico*, 113 F.3d 1170, 1173-74 (10th Cir. 1997) (citation omitted). The Tenth Circuit has pointed out that the Supreme Court's decisions in *Twombly* and *Erickson* gave rise to a new standard of review for § 1915(e)(2)(B)(ii) dismissals. See *Kay v. Bemis*, 500 F.3d 1214, 1218 (10th Cir. 2007) (citations omitted); see also *Smith v. United States*, 561 F.3d 1090, 1098 (10th Cir. 2009). As a result, courts "look to the specific allegations in the complaint to determine whether they plausibly support a legal claim for relief." *Kay*, 500 F.3d at 1218 (citation omitted). Under this new standard, "a plaintiff must 'nudge his claims across the line from conceivable to plausible.'" *Smith*, 561 F.3d at 1098 (citation omitted). "Plausible" in this context does not mean "likely to be true," but rather refers "to the scope of the allegations in a complaint: if they are so general that they encompass a wide swath of conduct, much of it innocent," then the plaintiff has not "nudged [his] claims across the line from conceivable to plausible." *Robbins v. Oklahoma*, 519 F.3d 1242, 1247 (10th Cir. 2008) (citing *Twombly*, 127 S. Ct. at 1974).

III. DISCUSSION

Plaintiff alleges excessive force in violation of the Eighth and Sixth Amendments. He also claims "cruel and unusual punishment" and "deliberate indifference." Plaintiff does not have an excessive force claim under the Sixth Amendment. Plaintiff's claim of excessive force, cruel and unusual punishment, and deliberate indifference are all the same claim under the Eighth Amendment. See *Estate of Booker v. Gomez*, 745 F.3d 405, 419 (10th Cir. 2014) (stating that "claims of excessive force involving convicted prisoners arise under the Eighth Amendment"). The Eighth Amendment's prohibition against "cruel and unusual punishments" applies to the treatment of inmates by prison officials. See *Whitley v. Albers*, 475 U.S. 312, 319-21 (1986). Prison officials violate inmates' Eighth Amendment rights when they subject them to the "unnecessary and wanton infliction of pain." *Id.* at 319. Plaintiff must prove both an objective component and subjective component to succeed on an excessive force claim. *Smith v. Cochran*, 339 F.3d 1205, 1212 (10th Cir. 2003). To establish the objective component, Plaintiff must show that "the alleged wrongdoing was objectively harmful enough to establish a constitutional violation." *Id.* Not every isolated battery or injury to an inmate amounts to a federal constitutional violation. See *Hudson v. McMillian*, 503 U.S. 1, 9

(1992) (stating that not "every malevolent touch by a prison guard gives rise to a federal cause of action.") (citing *Johnson v. Glick*, 481 F.2d 1028, 1033 (2nd Cir. 1973) ("Not every push or shove, even if it may later seem unnecessary in the peace of a judge's chambers, violates a prisoner's constitutional rights")). To establish the subjective component, Plaintiff must show that Defendants "act[ed] with a sufficiently culpable state of mind." *Cochran*, 339 F.3d at 1212 (citation omitted). "In order to establish such a claim, a prisoner must demonstrate that the defendant officials engaged in the 'unnecessary and wanton infliction of pain.'" *Reed v. Smith*, 1999 WL 345492, at *4 (10th Cir. 1999) (citation omitted). "[W]henver prison officials stand

accused of using excessive physical force in violation of the Cruel and Unusual Punishments Clause, the core judicial inquiry is . . . whether force was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm.” Hudson, 503 U.S. at 6–7 (citation omitted). “The Eighth Amendment’s prohibition of ‘cruel and unusual’ punishments necessarily excludes from constitutional recognition de minimis uses of physical force, provided that the use of force is not of a sort ‘repugnant to the conscience of mankind.’” Id. at 9–10; see also *Wilson v. Wilcox*, 2018 WL 1304532, at *6 (D. Colo. March 13, 2018) (“Because the disciplinary determination is inconsistent with some of Mr. Wilson’s allegations . . . the factual findings in the disciplinary determination control, both under Heck and consistent with the doctrine of collateral estoppel.”) (citing *Martinez v. City of Albuquerque*, 184 F.3d 1123, 1127 (10th Cir. 1999)). In *Moody v. Cory*, the Court considered the use of a pepperball gun and found that “Plaintiff’s own allegations indicate he was banging on his door, his behavior caused a team of officers to come to his cell to quell the disturbance, and he did not verbally respond when told to cuff up. Under these circumstances, the use of some physical force can hardly be considered repugnant to the conscience of mankind.” *Moody v. Cory*, 2010 WL 147268, at *4 (D. Kan. 2010). The Court finds that the proper processing of Plaintiff’s claims cannot be achieved without additional information from appropriate KDOC officials. See *Martinez v. Aaron*, 570 F.2d 317 (10th Cir. 1978); see also *Hall v. Bellmon*, 935 F.2d 1106 (10th Cir. 1991). Accordingly, the Court orders the appropriate KDOC officials to prepare and file a Martinez Report. Once the report has been received, the Court can properly screen Plaintiff’s claims under 28 U.S.C. § 1915A. III. Motion to Appoint Counsel Plaintiff has filed a Motion to Appoint Counsel (Doc. 4), arguing that he has no law library access because he has not been given a tablet. (Doc. 4–1, at 1.) Plaintiff argues that evidence needs to be produced, and an attorney is needed to research and prosecute the case. (Doc. 4, at 2– 3.) Plaintiff also requests oral argument. Id. at 4. The Court has considered Plaintiff’s motion for appointment of counsel. There is no constitutional right to appointment of counsel in a civil case. *Carper v. DeLand*, 54 F.3d 613, 616 (10th Cir. 1995). “Rather, a court has discretion to request an attorney to represent a litigant who is proceeding in forma pauperis” in a civil case. *Johnson v. Johnson*, 466 F.3d 1213, 1217 (10th Cir. 2006) (emphasis added) (citing 28 U.S.C. § 1915(e)(1)). In other words, if this motion is granted, it means only that the Court will request that an attorney volunteer to be appointed to represent Plaintiff at no cost to Plaintiff. The Court cannot guarantee that an attorney will volunteer. See *Rachel v. Troutt*, 820 F.3d 390, 396 (10th Cir. 2016) (“Courts are not authorized to appoint counsel in § 1983 cases; instead, courts can only ‘request’ an attorney to take a case.”). The decision whether to appoint counsel—meaning to request counsel to provide representation at no cost to Plaintiff—in a civil matter lies in the discretion of the district court. *Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991). The burden is on the applicant to convince the court that there is sufficient merit to his claim to warrant appointment of counsel. *Steffey v. Orman*, 461 F.3d 1218, 1223 (10th Cir. 2006) (citing *Hill v. SmithKline Beecham Corp.*, 393 F.3d 1111, 1115 (10th Cir. 2004)). It is not enough “that having

counsel appointed would have assisted [the prisoner] in presenting his strongest possible case, [as] the same could be said in any case.” Steffey, 461 F.3d at 1223 (citing Rucks v. Boergermann, 57 F.3d 978, 979 (10th Cir. 1995)). In deciding whether to request volunteer counsel for Plaintiff, the Court has considered “the merits of the prisoner’s claims, the nature and complexity of the factual and legal issues, and the prisoner’s ability to investigate the facts and present his claims.” Rucks, 57 F.3d at 979; Hill, 393 F.3d at 1115. The Court concludes in this case that (1) it is not clear at this juncture that Plaintiff has asserted a colorable claim against a named defendant; (2) the issues are not yet clarified and may not be complex; and (3) Plaintiff appears capable of adequately presenting facts and arguments. Thus, the Court will deny the motion without prejudice to refiling if this matter survives screening. IT IS THEREFORE ORDERED BY THE COURT that Plaintiff’s Motion to Appoint Counsel (Doc. 4) is denied without prejudice. IT IS FURTHER ORDERED that:

(1) The Court will enter a separate e-service order directing the Clerk of Court to serve Defendants.

(2) The Kansas Department of Corrections (“KDOC”) shall submit the Martinez Report within sixty (60) days following the electronic filing of the Waiver of Service Executed. Upon the filing of that Report, the Court will screen Plaintiff’s Complaint. If the Complaint survives screening, the Court will enter a separate order setting an answer deadline. Therefore, any answer deadline provided in the docket entry for the waiver of service is not controlling.

(3) Officials responsible for the operation of LSCF are directed to undertake a review of the subject matter of the Complaint: a. To ascertain the facts and circumstances; b. To consider whether any action can and should be taken by the institution to resolve the subject matter of the Complaint; and c. To determine whether other like complaints, whether pending in this Court or elsewhere, are related to this Complaint and should be considered together.

(4) Upon completion of the review, a written report shall be compiled which shall be filed with the Court and served on Plaintiff. If the KDOC officials wish to file any exhibits or portions of the report under seal or without service on Plaintiff, they must file such portions separately from the public report and provisionally under seal, to be followed immediately by a Motion to Seal or Redact Document(s). The KDOC officials are exempt from filing the Notice of Proposed Sealed Record under D. Kan. Rule 5.4.2(b).

(5) Statements of all witnesses shall be in affidavit form. Copies of pertinent rules, regulations, official documents, and, wherever appropriate, the reports of medical or psychiatric examinations shall be included in the written report. Any recordings related to Plaintiff’s claims shall also be included. The KDOC officials shall redact and/or mute audio for any personal identifiers included in any video or recording submitted.

(6) Authorization is granted to the KDOC officials to interview all

witnesses having knowledge of the facts, including Plaintiff.

(7) No motion or other document addressed to the Complaint shall be

filed until the Court has reviewed the Martinez Report and entered an order screening the Complaint.

(8) Discovery by Plaintiff shall not commence until Plaintiff has

received and reviewed any Court-ordered answer or response to the Complaint. This action is exempted from the requirements imposed under Fed. R. Civ. P. 26(a) and 26(f). IT IS FURTHER ORDERED that the Clerk of Court shall enter the KDOC as an interested party on the docket for the limited purpose of preparing the Martinez Report ordered herein. Upon the filing of that report, the KDOC may move for termination from this action. Copies of this order shall be transmitted to Plaintiff, Defendants, counsel for the KDOC, and the Attorney General for the State of Kansas. IT IS SO ORDERED. Dated December 22, 2025, in Kansas City, Kansas. S/ John W. Lungstrum

JOHN W. LUNGSTRUM

UNITED STATES DISTRICT JUDGE