

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Abdul Howard v. Unknown

Howard v. Unknown · No. 1:24-cv-00429-KES-SAB (PC) · Decided August 25, 2025

SUMMARY

The United States District Court for the Eastern District of California adopted findings and recommendations recommending dismissal of Abdul Howard’s Bivens action for failure to state a cognizable claim. The court held that claims against entities such as “Region/USA” could not proceed under Bivens, and that the plaintiff’s allegations of deliberate indifference and equal protection violations were conclusory or arose in an unrecognized Bivens context. The action was dismissed and the clerk was directed to close the case.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	August 25, 2025
DOCKET	1:24-cv-00429-KES-SAB (PC)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff objected to a magistrate judge's findings and recommendations recommending dismissal of his second amended Bivens complaint for failure to state a claim. The district court conducted de novo review, adopted the findings and recommendations, dismissed the action, and directed the clerk to close the case.
STANDARD OF REVIEW	De novo review of the magistrate judge's findings and recommendations under 28 U.S.C. § 636(b)(1).
PRECEDENTIAL VALUE	unpublished
PARTIES	Abdul Howard v. Unknown

TOPICS

- civil rights
- prisoners rights
- cruel and unusual punishment
- equal protection
- pleadings

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Howard's allegations stated a cognizable Eighth Amendment claim for deliberate indifference to serious medical needs.
2. Whether a Bivens claim may be asserted against the entities identified as "Region/USA."
3. Whether Howard's conclusory equal-protection allegations stated a claim.
4. Whether an implied Bivens remedy should be recognized for the asserted equal-protection claim arising in a new Bivens context.

HOLDINGS

1. The complaint and objections failed to state a cognizable Eighth Amendment claim because they did not adequately allege that any defendant acted with deliberate indifference to Howard's serious medical needs.
2. Howard could not proceed under Bivens against the entities "Region/USA" because Bivens claims are available against officers in their individual capacities, not against those entities.
3. Howard's brief reference to an equal-protection violation was insufficient because it was conclusory and did not provide facts supporting a reasonable inference that a defendant was liable for the alleged misconduct.
4. The court would not recognize a Bivens remedy for Howard's equal-protection claim because it arose in a new Bivens context and an alternative remedial structure precluded judicially created relief.

KEY QUOTATIONS

"The second component is a subjective showing: that Defendant acted with 'deliberate indifference,' which is 'more than mere negligence,' but 'less than acts or omissions for the very purpose of causing harm or with knowledge that harm will result.'" (at 2)

"a court may not fashion a Bivens remedy if Congress already has provided, or has authorized the Executive to provide, an alternative remedial structure." (at 2)

FACTUAL BACKGROUND

Howard, an inmate serving a life sentence, alleged that he did not receive the same compensation benefits after a slip-and-fall accident as inmates who were eligible for inmate compensation. He also alleged that he was denied medication and transfer to a medical facility, that regional or federal entities were responsible for the alleged violations, and that he received inadequate medical treatment after surgery and hospitalization. In his objections, he asserted Eighth Amendment medical-care and equal-protection violations but offered primarily conclusory allegations and indicated that he might refuse further surgery.

PROCEDURAL HISTORY

Howard proceeded pro se and in forma pauperis on a second amended complaint asserting Bivens claims arising from alleged inadequate medical care, denial of transfer to a medical facility, and unequal inmate compensation benefits. On January 23, 2025, the magistrate judge screened the second amended complaint and recommended dismissal for failure to state a cognizable claim. Howard filed objections on February 13, 2025. After de novo review under 28 U.S.C. § 636(b)(1), the district court found the recommendations supported by the record and proper analysis, adopted them in full, dismissed the action, and ordered the case closed.

DISPOSITION

dismissed

CASES CITED

- Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971)
- Toguchi v. Chung, 391 F.3d 1051, 1057 (9th Cir. 2004)
- Farmer v. Brennan, 511 U.S. 825, 834–35 (1994)
- Wilson v. Seiter, 501 U.S. 294, 298 (1991)
- Rhodes v. Chapman, 452 U.S. 337, 347 (1981)
- McDermott v. Idaho Department of Corrections, No. 1:24-CV-00140-DCN, 2024 WL 4930607, at *4 (D. Idaho Dec. 2, 2024)
- Morgan v. U.S., 323 F.3d 776, 780 n.3 (9th Cir. 2003)
- Vaccaro v. Dobre, 81 F.3d 854, 857 (9th Cir. 1996)
- Estelle v. Gamble, 429 U.S. 97, 104–06 (1976)
- Ashcroft v. Iqbal, 556 U.S. 662, 663, 129 S. Ct. 1937, 1940, 173 L. Ed. 2d 868 (2009)
- Ziglar v. Abbasi, 582 U.S. 120, 140 (2017)
- Davis v. Passman, 442 U.S. 228 (1979)
- Egbert v. Boule, 596 U.S. 482, 493 (2022)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 ABDUL HOWARD, No. 1:24-cv-00429-KES-SAB (PC) 12 Plaintiff,
ORDER ADOPTING FINDINGS AND RECOMMENDATIONS TO DISMISS 13 v. ACTION
FOR FAILURE TO STATE A CLAIM 14 UNKNOWN, Doc. 25 15 Defendant. 16 17 Plaintiff
Abdul Howard is proceeding pro se and in forma pauperis on his second 18 amended complaint
("SAC") filed pursuant to Bivens v. Six Unknown Named Agents of Fed.
19 Bureau of Narcotics, 403 U.S. 388 (1971). The matter was referred to a United States
magistrate 20 judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. 21 On January 23,
2025, the assigned magistrate judge screened the SAC and issued findings 22 and
recommendations, recommending that this action be dismissed for failure to state a 23 cognizable
claim upon which relief may be granted.

Doc. 25. Those findings and 24 recommendations were served on plaintiff and contained notice that any objections thereto were 25 to be filed within fourteen (14) days after service. Id. at 9. Plaintiff filed objections on February 26 13, 2025. Doc. 26. 27 /// 28 1 In his objections, plaintiff states that he was subjected to cruel treatment because, as an 2 inmate serving a life sentence, he did not receive the same compensation benefits following a slip 3 and fall accident as provided to inmates not serving such a sentence, who are eligible for inmate 4 compensation.

Id. at 1. Plaintiff contends that because he was not afforded these same benefits, 5 he returned to the jail in a worse condition after receiving surgery and spending fifty or more days 6 in the hospital. Id. He asserts that he was denied transfer to a medical facility because he is 7 serving a life sentence and that “the Region denies everything the doctors here ask for.” Id. at 1– 8 2.

Plaintiff states that he will refuse subsequent surgeries, while recognizing his need for them, 9 because the first surgery worsened his condition and many of his constitutional rights were 10 violated in the process of not being in a medical facility. Id. at 2. Plaintiff claims inmates are 11 being denied proper medical treatment in violation of equal protection and that, in denying him 12 medication and transfer to a medical facility, “Region/USA” is responsible for violations of 13 plaintiff’s Eighth Amendment right to be free from cruel and unusual punishment.

Id. 14 Plaintiff’s objections fail to meaningfully address the deficiencies identified in the 15 findings and recommendations. A claim under the Eighth Amendment has two components. 16 *Toguchi v. Chung*, 391 F.3d 1051, 1057 (9th Cir. 2004).

First, the objective component requires a 17 “sufficiently serious” deprivation, that is, one that “result[s] in the denial of ‘the minimal civilized 18 measure of life’s necessities.’” *Farmer v. Brennan*, 511 U.S. 825, 834 (1994) (first quoting 19 *Wilson v. Seiter*, 501 U.S. 294, 298 (1991); and then quoting *Rhodes v. Chapman*, 452 U.S. 337, 20 347 (1981)). “The second component is a subjective showing: that Defendant acted with 21 ‘deliberate indifference,’ which is ‘more than mere negligence,’ but ‘less than acts or omissions 22 for the very purpose of causing harm or with knowledge that harm will result.’” *McDermott v. 23 Idaho Dep’t of Corr.*, No. 1:24-CV-00140-DCN, 2024 WL 4930607, at *4 (D.

Idaho Dec. 2, 24 2024) (quoting *Farmer*, 511 U.S. at 835). 25 As the findings and recommendations correctly note, a *Bivens* claim is available against 26 officers only in their individual capacities. Doc. 25 at 3. To the extent plaintiff’s medical claim 27 is asserted against the entities “Region/USA,” that claim cannot proceed as a *Bivens* claim. 28 *Morgan v. U.S.*, 323 F.3d 776, 780 n.3 (9th Cir.

2003); *Vaccaro v. Dobre*, 81 F.3d 854, 857 (9th 1 Cir. 1996). Plaintiff’s conclusory assertions are also insufficient to demonstrate that any 2 defendant was deliberately indifferent to plaintiff’s

serious medical needs. *Estelle v. Gamble*, 429 U.S. 97, 104–06 (1976). Plaintiff’s objections also suggest that plaintiff is refusing to receive further surgery to address his condition.

Plaintiff’s brief reference in his objections to an equal protection violation is conclusory and fails to provide the necessary factual basis to allow for “the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 663, 129 S. Ct. 813, 1940, 173 L. Ed. 2d 868 (2009).

Moreover, that claim arises in “a new *Bivens* context.” *Ziglar v. Abbasi*, 582 U.S. 120, 140 (2017); cf. *Davis v. Passman*, 442 U.S. 228 (1979) (recognizing *Bivens* remedy for Fifth Amendment Equal Protection claim based on gender discrimination in federal employment).

For the reasons explained in the findings and recommendations, Doc. 25 at 5:25–6:6, this cause of action cannot be recognized under *Bivens*. See also *Egbert v. Boule*, 596 U.S. 482, 493 (2022) (“a court may not fashion a *Bivens* remedy if Congress already has provided, or has authorized the Executive to provide, an alternative remedial structure.”).

In accordance with the provisions of 28 U.S.C. § 636(b)(1), this Court has conducted a *de novo* review of this case. Having carefully reviewed the file, including plaintiff’s objections, the Court finds the findings and recommendations to be supported by the record and by proper analysis. 20 /// 21 /// 22 /// 23 /// 24 /// 25 /// 26 /// 27 /// 28 /// 1 Accordingly: 2 1.

The findings and recommendations issued on January 23, 2025, Doc. 25, are adopted in full; 4 2. This action is dismissed for failure to state a cognizable claim upon which relief may be granted; and 6 3. The Clerk of the Court is directed to close this case. 7 8 g | SO ORDERED. _ 10 Dated: _ August 24, 2025 4h UNITED STATES DISTRICT JUDGE 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28