

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

Nichelle R. Kephart v. Crystal Large, et al.

Kephart v. Large · No. 7:25-cv-00529 · Decided April 28, 2026

SUMMARY

The United States District Court for the Western District of Virginia grants Defendants’ motions to dismiss a pro se pretrial detainee’s 42 U.S.C. § 1983 claims concerning an alleged change to her seizure medication. The court concludes that the complaint does not identify each Defendant’s personal involvement or adequately allege deliberate indifference and grants Plaintiff 30 days to file 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	April 28, 2026
DOCKET	7:25-cv-00529
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff, a pro se pretrial detainee, brought a 42 U.S.C. § 1983 action alleging deliberate indifference to serious medical needs after her seizure medication was changed following her transfer to jail. Defendants moved to dismiss under Federal Rule of Civil Procedure 12(b)(6).
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court evaluates the sufficiency of the complaint, accepts well-pleaded factual allegations as true, draws reasonable inferences in the plaintiff's favor, and determines whether the allegations state a plausible claim for relief. The court may consider the complaint as a whole and documents attached to or incorporated into it.
PRECEDENTIAL VALUE	unpublished district court memorandum opinion

PARTIES

Nichelle R. Kephart v. Crystal Large, Josh Hayes

TOPICS

motions to dismiss

section 1983

prisoners rights

medical licensing

civil procedure

PRACTICE AREAS

civil procedure

civil rights

constitutional law

prisoner medical care

QUESTIONS PRESENTED

1. Whether the complaint plausibly stated a claim under 42 U.S.C. § 1983 against either defendant when it did not identify either defendant's personal involvement in changing the medication or describe conduct by either defendant.
2. Whether the complaint plausibly alleged deliberate indifference to serious medical needs under the Fourteenth Amendment.
3. Whether the pro se plaintiff should be granted leave to amend based on additional factual allegations raised in her opposition.

HOLDINGS

1. A § 1983 plaintiff must allege direct personal involvement and each defendant's own constitutional violation; the complaint failed to state a claim because it did not identify which defendant changed the medication or describe what either defendant did or failed to do.
2. The complaint failed to state a plausible Fourteenth Amendment deliberate-indifference claim because it did not clearly allege that the responsible provider knew or should have known that changing the medication posed an unjustifiably high risk of harm, or that Plaintiff was actually harmed by the change.
3. The court granted Kephart leave to amend within 30 days because her opposition identified additional factual allegations that could make her claims plausible if properly pleaded.

KEY QUOTATIONS

“To survive such a motion, “a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’”” (Section II)

“Because vicarious liability is inapplicable to . . . § 1983 suits, a plaintiff must plead that each Government-official defendant, through the official’s own individual actions, has violated the Constitution.” (Section III)

“The Fourteenth Amendment protects pretrial detainees from governmental actions that are “not rationally related to a legitimate nonpunitive purpose or that [are] excessive in relation to that purpose.”” (Section III)

FACTUAL BACKGROUND

Kephart was a pretrial detainee transferred to Haysi Regional Jail on May 13, 2025. Upon transfer, a jail medical provider changed her seizure medication without first seeing her. The complaint did not identify which

defendant was responsible for the change or allege specific conduct by either defendant, and it did not clearly allege that the medication change caused actual harm. In her opposition, Kephart asserted that Large was responsible for changing how and when she received the medication, that the change caused numerous preventable seizures, and that Hayes failed to supervise jail employees.

PROCEDURAL HISTORY

Kephart filed the action against Crystal Large and Josh Hayes. Defendants separately moved to dismiss. The court granted both motions because the complaint did not plausibly allege either defendant's personal involvement or all elements of a Fourteenth Amendment deliberate-indifference claim, but granted Kephart 30 days to file an amended complaint before entering a final order of dismissal.

DISPOSITION

dismissed

REMAND INSTRUCTIONS

No remand. Plaintiff must file a new amended complaint within 30 days of April 28, 2026, alleging facts supporting all elements of her claims. If she does not amend within that period, the court will enter a final order dismissing the claims.

CASES CITED

- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Occupy Columbia v. Haley, 738 F.3d 107, 116
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 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)
- Trulock v. Freeh, 275 F.3d 391, 402 (4th Cir. 2001)
- Allison v. Ball, No. 7:18cv00125, 2019 WL 1049393, at *2 (W.D. Va. Mar. 5, 2019)
- Ashcroft v. Iqbal, 556 U.S. 662, 676 (2009)
- Prosha v. Robinson, No. 3:16CV163, 2018 WL 564855, at *3 (E.D. Va. Jan. 25, 2018)
- Potter v. Clarke, 497 F.2d 1206, 1207 (7th Cir. 1974)
- Jenkins v. Woodard, 109 F.4th 242, 250 n.3 (4th Cir. 2024)
- Short v. Hartman, 87 F.4th 593, 599 (4th Cir. 2023)
- Short v. Hartman, 87 F.4th 593, 611 (4th Cir. 2023)
- Colquitt v. Bon Secour Mercy Health, No. 4:21-cv-53, 2022 WL 479093, at *1 (E.D. Va. Feb. 16, 2022)
- Gatewood v. Sony Corp. of Am., No. 3:19-cv-87, 2020 WL 1876062, at *1 (W.D.N.C. Apr. 15, 2020)

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