

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

Theodore E. Musgrove v. Corporal W. Baerlocher; Sgt. S. Soshea;
Deputy Warden T. McKay; Warden R. Ross; Captain B. Crowl;
Deputy Warden D. Dietz; and Warden R. Valley

Musgrove · No. 1:25-cv-00360-AKB · Decided March 31, 2026

SUMMARY

The United States District Court for the District of Idaho screened Theodore E. Musgrove’s amended prisoner civil-rights complaint under 28 U.S.C. §§ 1915(e)(2)(B) and 1915A. The court concluded that the complaint failed to plausibly state First Amendment retaliation or petition claims, Eighth Amendment claims, or claims against supervisory and grievance-review defendants based solely on their roles in upholding or responding to the disciplinary proceedings. The court granted Musgrove 28 days to file a second amended complaint and warned that failure to do so could result in dismissal.

CASE DETAILS

COURT	United States District Court for the District of Idaho
WRITING FOR THE COURT	Amanda K. Brailsford
JURISDICTION	United States District Court for the District of Idaho
DECIDED	March 31, 2026
DOCKET	1:25-cv-00360-AKB
DISPOSITION	other
PROCEDURAL POSTURE	Prisoner civil-rights action under 42 U.S.C. § 1983 screened under 28 U.S.C. §§ 1915(e)(2)(B) and 1915A. The court found that the amended complaint failed to state a claim but granted the plaintiff 28 days to file a second amended complaint.
STANDARD OF REVIEW	Screening under 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b), applying the Federal Rule of Civil Procedure 8(a)(2) plausibility standard and liberally construing the prisoner's pleadings. The court accepted factual allegations as true but rejected conclusory allegations and claims lacking a cognizable legal or factual basis.
PRECEDENTIAL VALUE	nonprecedential district-court initial review order
PARTIES	Theodore E. Musgrove v. Corporal W. Baerlocher, Sgt. S. Soshea, Deputy Warden T. McKay, Warden R. Ross, Captain B. Crowl, Deputy

TOPICS

pleadings

civil procedure

section 1983

first amendment

cruel and unusual punishment

PRACTICE AREAS

civil rights litigation

prisoner litigation

constitutional law

federal civil procedure

QUESTIONS PRESENTED

1. Whether the amended complaint plausibly alleged that defendants violated Musgrove's First Amendment right to petition the government for redress of grievances.
2. Whether the amended complaint plausibly alleged a First Amendment retaliation claim based on the disciplinary offense report issued after Musgrove filed a grievance.
3. Whether 30 days of commissary restriction and 20 days of property restriction constituted an objectively serious deprivation under the Eighth Amendment.
4. Whether defendants who upheld the disciplinary decision or denied grievances could be liable under 42 U.S.C. § 1983 without personal participation in the alleged constitutional violation.
5. Whether Musgrove should be permitted to file a second amended complaint after the amended complaint failed to state a claim.

HOLDINGS

1. The amended complaint failed to state a First Amendment right-to-petition claim because Musgrove was able to pursue his grievances and had no constitutional entitlement to a favorable response or decision.
2. The amended complaint failed to state a plausible First Amendment retaliation claim because it offered only a bare allegation of retaliatory motive and did not plausibly establish a causal nexus between the grievance and the disciplinary offense report.
3. The amended complaint failed to state an Eighth Amendment claim because 30 days of commissary restriction and 20 days of property restriction did not constitute an objectively serious deprivation or a substantial risk of serious harm, and the allegations did not plausibly show deliberate indifference.
4. The claims against the defendants who upheld the disciplinary report or responded to grievances were implausible because § 1983 liability generally requires personal participation or a sufficient causal connection to the alleged constitutional violation.
5. Because the amended complaint failed to state a claim, the court granted Musgrove 28 days to file a compliant second amended complaint and warned that failure to do so could result in dismissal.

KEY QUOTATIONS

“The right to petition the government is a right of expression—it does not guarantee a response to the petition or the right to compel government officials to act on the petition.”

“A plaintiff cannot simply restate these standards of law in a complaint. Instead, a plaintiff must provide specific facts supporting the elements of each claim and must allege facts showing a causal link between each defendant and Plaintiff’s injury or damage.”

“This punishment simply does not rise to the level of a deprivation of the minimal civilized measure of life’s necessities or a substantial risk of serious harm.”

FACTUAL BACKGROUND

Musgrove, an Idaho prisoner, alleged that property went missing during a prison transfer and that he filed a grievance concerning a missing television. Correctional Officer Baerlocher determined that the television had been loaned by IDOC after Musgrove had already been reimbursed for his own lost television and issued a disciplinary offense report for attempting to manipulate staff. Musgrove received 30 days of commissary restriction and 20 days of property restriction, and the other defendants either upheld the disciplinary decision or responded to related grievances.

PROCEDURAL HISTORY

The Clerk conditionally filed the plaintiff's complaint and amended complaint because he was incarcerated and sought to proceed in forma pauperis. On initial review, the court concluded that the amended complaint failed to state a claim for First Amendment petition or retaliation violations, Eighth Amendment violations, or supervisory and grievance-responder liability. The court permitted a second amendment and warned that failure to timely and properly amend could result in dismissal.

DISPOSITION

other

CASES CITED

- Ashcroft v. Iqbal, 556 U.S. 662, 677-79 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-56 (2007)
- Jackson v. Arizona, 885 F.2d 639, 640 (9th Cir. 1989)
- Lopez v. Smith, 203 F.3d 1122, 1130 (9th Cir. 2000)
- Crumpton v. Gates, 947 F.2d 1418, 1420 (9th Cir. 1991)
- Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978)
- Taylor v. List, 880 F.2d 1040, 1045 (9th Cir. 1989)
- Shehee v. Luttrell, 199 F.3d 295, 300 (6th Cir. 1999)
- Starr v. Baca, 652 F.3d 1202, 1205-09 (9th Cir. 2011)
- Hansen v. Black, 885 F.2d 642, 646 (9th Cir. 1989)
- City of Canton v. Harris, 489 U.S. 378, 390 (1989)
- Connick v. Thompson, 563 U.S. 51, 72 (2011)
- Dougherty v. City of Covina, 654 F.3d 892, 900 (9th Cir. 2011)

- Chacon v. Diaz, 2020 WL 7220459, at *5 (C.D. Cal. Nov. 25, 2020)
- Smith v. Arkansas State Highway Employees, Local 1315, 441 U.S. 463, 465 (1979)
- Rhodes v. Robinson, 408 F.3d 559, 567-68 (9th Cir. 2005)
- Rizzo v. Dawson, 778 F.2d 527, 532 (9th Cir. 1985)
- Wood v. Yordy, 753 F.3d 899, 905 (9th Cir. 2014)
- Pratt v. Rowland, 65 F.3d 802, 806-08 (9th Cir. 1995)
- Mendocino Environmental Center v. Mendocino County, 192 F.3d 1283, 1300 (9th Cir. 1999)
- Davis v. Goord, 320 F.3d 346, 353 (2d Cir. 2003)
- Morris v. Powell, 449 F.3d 682, 686 (5th Cir. 2006)
- Hartman v. Moore, 547 U.S. 250, 259-60 (2006)
- Huskey v. City of San Jose, 204 F.3d 893, 899 (9th Cir. 2000)
- Rhodes v. Chapman, 452 U.S. 337, 349 (1981)
- Farmer v. Brennan, 511 U.S. 825, 832, 834 (1994)
- Keenan v. Hall, 83 F.3d 1083, 1090-91 (9th Cir. 1996)
- Hoptowit v. Ray, 682 F.2d 1237, 1246 (9th Cir. 1982)
- Sandin v. Conner, 515 U.S. 472 (1995)
- Peralta v. Dillard, 744 F.3d 1076 (9th Cir. 2014) (en banc)
- Ellis v. Cassidy, 625 F.2d 227, 229 (9th Cir. 1980)
- Ivey v. Board of Regents of University of Alaska, 673 F.2d 266, 268 (9th Cir. 1982)
- Forsyth v. Humana, Inc., 114 F.3d 1467, 1474 (9th Cir. 1997)
- Lacey v. Maricopa County, 693 F.3d 896 (9th Cir. 2012) (en banc)
- Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc., 896 F.2d 1542, 1546 (9th Cir. 1990)
- Knapp v. Hogan, 738 F.3d 1106, 1110 (9th Cir. 2013)
- Spencer v. Barajas, 140 F.4th 1061, 1066 (9th Cir. 2025)