

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Boswell v. McDonough

Boswell · No. 25-cv-1769-RSH-AHG · Decided August 1, 2025

SUMMARY

The United States District Court for the Southern District of California grants Shequita Boswell’s motion to proceed in forma pauperis. The court dismisses her complaint under 28 U.S.C. § 1915(e)(2) (B) because it does not allege exhaustion of administrative remedies for her Title VII and Rehabilitation Act claims and does not adequately explain her Privacy Act and due process theories. The dismissal is with leave to amend within 30 days.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Robert S. Huie
JURISDICTION	United States District Court for the Southern District of California
DECIDED	August 1, 2025
DOCKET	25-cv-1769-RSH-AHG
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff filed a pro se federal civil action alleging pregnancy discrimination, Title VII retaliation, Rehabilitation Act disability discrimination, Privacy Act violations, and constructive removal due process violations, together with a motion to proceed in forma pauperis. The district court granted IFP status, screened the complaint under 28 U.S.C. § 1915(e)(2)(B), dismissed the complaint for failure to state a claim, and granted leave to amend.
STANDARD OF REVIEW	Under 28 U.S.C. § 1915(e)(2)(B), the court conducted sua sponte screening of an IFP complaint. The standard for failure to state a claim under § 1915(e)(2)(B)(ii) is the same as the Federal Rule of Civil Procedure 12(b)(6) standard, including the requirement that the complaint contain sufficient factual matter to state a plausible claim for relief.
PRECEDENTIAL VALUE	unpublished district court order; precedential status unknown

PARTIES

Shequita Boswell v. Denis McDonough, Secretary, U.S. Department of Veterans Affairs

TOPICS

title vii pregnancy discrimination ada / disability exhaustion of remedies pleadings

PRACTICE AREAS

civil procedure employment law civil rights federal employment law administrative law

QUESTIONS PRESENTED

1. Whether the complaint could proceed under 28 U.S.C. § 1915(e)(2)(B) when it did not allege compliance with the administrative exhaustion requirements applicable to federal-employee Title VII and Rehabilitation Act claims.
2. Whether the complaint adequately stated Privacy Act and constructive-removal due-process claims when it provided only unelaborated labels without sufficient supporting facts or legal theories.
3. Whether dismissal should be with leave to amend rather than without leave to amend.

HOLDINGS

1. A federal employee must plead compliance with the applicable administrative exhaustion requirements before bringing Title VII discrimination or retaliation claims, or Rehabilitation Act discrimination claims, in federal court. Because Boswell's complaint contained no allegations regarding exhaustion, those claims were subject to dismissal.
2. The complaint failed to state Privacy Act and constructive-removal due-process claims because it offered only unelaborated labels and did not provide adequate factual allegations or legal theories supporting a valid claim.
3. A pro se complaint should not be dismissed without leave to amend unless it is absolutely clear that the deficiencies cannot be cured by amendment; because amendment could potentially cure the identified deficiencies, the court granted leave to amend.

KEY QUOTATIONS

“The ‘standard for determining whether a plaintiff has failed to state a claim upon which relief can be granted under [28 U.S.C.] § 1915(e)(2)(B)(ii) is the same as the Federal Rule of Civil Procedure 12(b)(6) standard for failure to state a claim.’” (at 2)

“A federal employee asserting a claim of discrimination under the Rehabilitation Act must exhaust administrative remedies before filing a civil action in district court.” (at 3)

“Not only must a plaintiff exhaust her claims to bring suit, but she must also plead exhaustion.” (at 4)

“A district court should not dismiss a pro se complaint without leave to amend unless ‘it is absolutely clear that the deficiencies of the complaint could not be cured by amendment.’” (at 5)

FACTUAL BACKGROUND

While on approved FMLA leave following childbirth in 2024, Boswell alleged that the Department of Veterans Affairs reassigned her without consent to a cybersecurity internship with the National Credit Union Administration. She alleged that the VA treated her as having left her position, causing loss of income, employment status, and medical benefits, although she never resigned. She also alleged that postpartum complications and sepsis after a C-section prevented her from timely objecting.

PROCEDURAL HISTORY

On July 10, 2025, Boswell filed the complaint and an application to proceed in forma pauperis. The court granted the IFP application, conducted mandatory screening, concluded that the Title VII and Rehabilitation Act claims did not plead administrative exhaustion and that the Privacy Act and constructive-removal due-process claims lacked sufficient factual allegations or legal theories, and dismissed with leave to amend within thirty days.

DISPOSITION

dismissed

REMAND INSTRUCTIONS

Plaintiff may file an amended complaint addressing the identified deficiencies within thirty days of the order. If she does not timely amend, the action will be dismissed.

CASES CITED

- Escobedo v. Applebees, 787 F.3d 1226, 1234 (9th Cir. 2015)
- Venerable v. Meyers, 500 F.2d 1215, 1216 (9th Cir. 1974)
- Calhoun v. Stahl, 254 F.3d 845, 845 (9th Cir. 2001)
- Watison v. Carter, 668 F.3d 1108, 1112 (9th Cir. 2012)
- Ashcroft v. Iqbal, 556 U.S. 662, 678-79 (2009)
- Bullock v. Berrien, 688 F.3d 613, 616 (9th Cir. 2012)
- Jasch v. Potter, 302 F.3d 1092, 1096 (9th Cir. 2002)
- Neill v. YMCA of San Diego, No. 23-cv-457-JLS (DEB), 2024 WL 1859950, at *4 (S.D. Cal. Apr. 29, 2024)
- Williams v. Wolf, No. 19-cv-00652-JCS, 2019 WL 6311381, at *6 (N.D. Cal. Nov. 25, 2019)
- Akhtar v. Mesa, 698 F.3d 1202, 1212 (9th Cir. 2012)
- Schucker v. Rockwood, 846 F.2d 1202, 1204 (9th Cir. 1988)