

**UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WASHINGTON**

Antonio McClain v. Nina Burgent

McClain v. Burgent · No. 2:25-cv-02004-TL · Decided January 20, 2026

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT WESTERN DISTRICT OF
WASHINGTON 9 AT SEATTLE 10 11 ANTONIO MCCLAIN, CASE NO. 2:25-cv-02004-TL 12
Plaintiff, ORDER OF DISMISSAL WITH 13 v. LEAVE TO AMEND 14 NINA BURGENT, 15
Defendant. 16 17 This case arises from Plaintiff Antonio McClain’s claims regarding alleged
medical 18 malpractice by Defendant Nina Burgent at the Washington State Department of
Corrections 19 (“DOC”), as well a claim that he was sexually assaulted by a nurse at DOC.

Dkt. No. 5 at 8–9 20 (Complaint). This matter is before the Court on its own motion. Having
reviewed Plaintiff’s 21 Complaint, the Court finds that Plaintiff fails to state a claim upon which
relief may be granted 22 and therefore DISMISSES WITHOUT PREJUDICE Plaintiff’s
Complaint with leave to file an amended 23 complaint. 24 1 I. BACKGROUND 2 On October 8,
2025, Plaintiff filed an application to proceed in forma pauperis (“IFP”) in 3 this action.

Dkt. No. 1. Plaintiff’s application for IFP status was granted, but U.S. Magistrate 4 Judge Brian A.
Tsuchida recommended review under 28 U.S.C. § 1915(e)(2)(B). Dkt. No. 4. 5 Plaintiff’s
complaint was subsequently filed on the docket. Dkt. No. 5. 6 II. LEGAL STANDARD 7 The
Court’s authority to grant IFP status derives from 28 U.S.C. § 1915. Per the statute, 8 the Court
must dismiss a case if the IFP Plaintiff fails to state a claim upon which relief may be 9 granted.

See 28 U.S.C. § 1915(e)(2)(B)(ii); see also *Lopez v. Smith*, 203 F.3d 1122, 1129 (9th 10 Cir.
2000) (“[S]ection 1915(e) applies to all in forma pauperis complaints, not just those filed by 11
prisoners”). “The legal standard for dismissing a complaint for failure to state a claim under 28 12
U.S.C. § 1915(e)(2)(B)(ii) is the same as when ruling on dismissal under Federal Rule of Civil 13
Procedure 12(b)(6).” *Day v. Florida*, 2014 WL 1412302, at *4 (W.D.

Wash. Apr. 10, 2014) 14 (citing *Lopez*, 203 F.3d at 1129). Rule 12(b)(6) requires courts to assume
the truth of factual 15 allegations and credit all reasonable inferences arising from those
allegations. *Sanders v. Brown*, 16 504 F.3d 903, 910 (9th Cir. 2007). Plaintiff must provide
sufficient factual details in the 17 complaint to “state a claim to relief that is plausible on its face.”
Bell Atl.

Corp. v. *Twombly*, 550 18 U.S. 544, 570 (2007). Where a plaintiff proceeds pro se (without an
attorney), courts must 19 construe the complaint liberally. *Johnson v. Lucent Techs. Inc.*, 653 F.3d

1000, 1011 (9th Cir. 20 2011) (citing *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010)).

However, a court “should not 21 supply essential elements of the [pro se] claim that were not initially pled.” E.g., *Henderson v. 22 Anderson*, 2019 WL 3996859, at *1 (W.D. Wash. Aug. 23, 2019) (internal citation and quotation 23 omitted); see also *Khalid v. Microsoft Corp.*, 409 F. Supp. 3d 1023, 1031 (W.D. Wash. 2019) 24 1 (“[C]ourts should not have to serve as advocates for pro se litigants.” (quoting *Noll v. Carlson*, 2 809 F.2d 1446, 1448 (9th Cir.

1987))). 3 III. DISCUSSION 4 Here, Plaintiff’s Complaint lacks sufficient factual detail to plausibly state a claim. 5 Plaintiff asserts federal question jurisdiction under 42 U.S.C. § 1983, which allows claims 6 alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and 7 [federal laws].” Specifically, Plaintiff asserts violations under the First, Fifth, Eighth, and 8 Fourteenth Amendments.

Dkt. No. 5 at 6. The Court will address each of Plaintiff’s claims in 9 turn. 10 First, Plaintiff claims that Defendant committed medical malpractice. Id. Plaintiff claims 11 Defendant did this by offering him antipsychotic medications, to which he explained to her he 12 “takes melatonin at night and high blood pressure medication also.” Id. In response to that, 13 Plaintiff asserts that the nurse “ran away.” Id. Plaintiff makes no other claims as to how the 14 Defendant committed medical malpractice, nor does he elaborate on how this set of facts is a 15 violation of his First, Fifth, Eighth, or Fourteenth Amendment rights.

See generally Dkt. No. 5. 16 To state a plausible claim for relief in federal court, a Plaintiff must “plead[] factual content that 17 allows the court to draw the reasonable inference that the defendant is liable for the misconduct 18 alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 672 (2009). There is no reasonable inference that could 19 be drawn here that Defendant committed medical malpractice by offering medication that 20 Plaintiff declined to take.

Further, without additional facts provided to the Court, the Court 21 cannot draw an inference that Plaintiff’s First, Fifth, Eighth, or Fourteenth Amendments were 22 violated. 23 Second, Plaintiff’s complaint makes assertions about Defendant’s failure to give him a 24 pin number for his Securus telephone account. Dkt. No. 5 at 8. He asserts that he “was supposed 1 to be issued a pin number for Securus telephone calls which [were] not provided [to] him.” Id. 2 He later states that he tried to talk to Defendant several times to request a pin number, but she 3 “ran away”.

Id. Plaintiff further asserts that he “talked with Case Manager Boykin who said 4 [Plaintiff] would be leaving to [sic] the community, but no pin number for the telephone was 5 ever issued.” Id. 6 At no point does Plaintiff’s complaint explain why Defendant—a nurse at DOC—is 7 expected to provide Plaintiff a pin number for his Securus account, nor how that violates his 8 First, Fifth, Eighth, or Fourteenth Amendment rights. “Determining whether a complaint states a 9 plausible

claim for relief will... be a context-specific task that requires the reviewing court to 10 draw on its judicial experience and common sense.” *Iqbal*, 556 U.S. at 679.

Here, the Court uses 11 its common sense to conclude that a nurse’s primary job is to provide medical services, not to 12 assist their patient with non-medically related technology or administrative assistance. Further, 13 Plaintiff does not tie the allegations to the question of why it would be a violation of his First, 14 Fifth, Eighth, or Fourteenth Amendments.

15 Plaintiff’s complaint also alleges he was “raped by a female nurse[.]” *Id.* at 9. Plaintiff 16 asserts this in section five of his complaint, in which the prompt requests information on any 17 injuries sustained as a result of the alleged violations. *Id.* However, Plaintiff does not include any 18 information about the alleged sexual assault in section four of the complaint, in which the prompt 19 requests information on the facts of the claims alleged.

See *id.* at 8. As a result, Plaintiff does not 20 provide any details—like when it occurred, where it occurred, or by whom—as to the alleged 21 sexual assault. See generally Dkt. No. 5. Further, the context of his assertion, which is separate 22 from the factual allegations that name Defendant, makes it unclear if the perpetrator of the 23 alleged sexual assault is the Defendant, or a different nurse.

Plaintiff also does not address his 24 overarching claim of First, Fifth, Eighth, and Fourteenth Amendment violations in relation to the 1 sexual assault claim. Even construing Plaintiff’s complaint liberally, a one sentence assertion 2 without providing supporting details or what rights were violated leaves the Court without 3 enough information to make a reasonable inference that a violation occurred.

4 Lastly, while Plaintiff has alleged violations of his First, Fifth, Eighth, and/or Fourteenth 5 Amendments, he does not explain what facts demonstrate any of his rights under these 6 amendments was violated. The First Amendment guarantees freedoms concerning religion, 7 speech, and assembly. U.S. Const. Amend.

I. The Fifth Amendment guarantees the right to 8 a grand jury, forbids “double jeopardy,” and protects against self-incrimination in addition to 9 requiring that “due process of law” be part of any proceeding that denies a citizen “life, liberty or 10 property.” U.S. Const. Amend.

V. The Eighth Amendment prohibits cruel and unusual 11 punishment. U.S. Const. Amend. VIII. Most relevant here, “[a] prison official’s ‘deliberate 12 indifference’ to a substantial risk of serious harm to an inmate violates the Eighth Amendment.” 13 *Farmer v. Brennan*, 511 U.S. 825, 828 (1994) (citation omitted). A prison official violates the 14 Eighth Amendment when: (1) their act or omission denies the minimal civilized measures of 15 life’s necessities; and (2) the official shows deliberate indifference to the health or safety of the 16 incarcerated individual.

Id. at 834. Finally, the Fourteenth Amendment guarantees the right to 17 due process. U.S. Const. Amend. XIV. But the facts Plaintiff includes in his complaint do not 18 appear to involve any of these rights in any way. 19 The Court, therefore, FINDS that Plaintiff fails to state a plausible claim for relief under 42 20 U.S.C. § 1983.

For this reason, the Court must dismiss Plaintiff's Complaint pursuant to 28 21 U.S.C. § 1915(e)(2)(B)(ii). Courts will typically allow pro se plaintiffs to amend their complaints 22 in lieu of dismissal unless amendment would be futile because no set of facts can cure the 23 deficiencies. *Yagman v. Garcetti*, 852 F.3d 859, 867 (9th Cir. 2017).

Therefore, the Court will 24 allow Plaintiff the opportunity to file an Amended Complaint. However, the Court cautions 1 || Plaintiff that his Amended Complaint must conform to the minimum requirements of Federal 2 || Rule of Civil Procedure 8(a). This means that Plaintiff's Amended Complaint must include a 3 || short and plain statement of the grounds for the Court's jurisdiction, a short and plain statement 4 || of the claim showing that he is entitled to relief (and entitled to relief specifically under each 5 || Constitutional amendment he claims was violated), and a demand for the relief sought.

Fed. R. 6 || Civ. P. 8(a). All three of these requirements must be met. The Court strongly urges Plaintiff to 7 || review the resources for pro se litigants available at 8 || <https://www.wawd.uscourts.gov/representing-yourself-pro-se>. 9 IV. CONCLUSION 10 Accordingly, this case is DISMISSED WITHOUT PREJUDICE.

However, the 11 || Court GRANTS Plaintiff leave to amend his Complaint within thirty (30) days of this Order. 12 || Therefore, any amended complaint is due by February 19, 2026. If an amended complaint is 13 || not filed by February 19, 2026, this case will be dismissed. 14 Dated this 20th day of January, 2026. ° a. ZZ 16 Tana Lin 7 United States District Judge 18 19 20 21 22 23 24 ORDER OF DISMISSAL WITH LEAVE TO AMEND — 6