

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
INDIANA, TERRE HAUTE DIVISION

Thomas Jerome Howard, Jr. v. Christop Simmerman, et al.

Howard v. Simmerman · No. 2:26-cv-00021-JPH-MKK · Decided May 21, 2026

SUMMARY

The United States District Court for the Southern District of Indiana dismissed Thomas Jerome Howard, Jr.'s action after screening under 28 U.S.C. § 1915A and reviewing his response to an order to show cause. The court held that the alleged destruction or loss of personal property did not state a cognizable § 1983 claim because an adequate state-law remedy was available, declined supplemental jurisdiction over any state-law claims, and directed entry of final judgment.

CASE DETAILS

COURT	United States District Court for the Southern District of Indiana, Terre Haute Division
WRITING FOR THE COURT	James Patrick Hanlon
JURISDICTION	United States District Court for the Southern District of Indiana
DECIDED	May 21, 2026
DOCKET	2:26-cv-00021-JPH-MKK
DISPOSITION	dismissed
PROCEDURAL POSTURE	After screening under 28 U.S.C. § 1915A, the court dismissed the complaint for failure to state a claim, issued an order to show cause, considered Plaintiff's response and exhibits, and directed entry of final judgment.
STANDARD OF REVIEW	Screening review under 28 U.S.C. § 1915A to determine whether the complaint states a claim upon which relief may be granted.
PRECEDENTIAL VALUE	Unpublished district court order; precedential status not stated in the opinion.
PARTIES	Thomas Jerome Howard, Jr. v. Christop Simmerman, et al.

TOPICS

- prisoners rights
- section 1983
- civil rights
- civil procedure
- subject matter jurisdiction

PRACTICE AREAS

prisoner civil rights

federal civil procedure

constitutional torts

supplemental jurisdiction

QUESTIONS PRESENTED

1. Whether Plaintiff's allegations concerning the destruction or loss of personal property stated a cognizable claim under 42 U.S.C. § 1983.
2. Whether the court should exercise supplemental jurisdiction over prospective state-law claims after dismissal of the federal claim.
3. Whether the action should be dismissed under 28 U.S.C. § 1915A for failure to state a claim.

HOLDINGS

1. The alleged deprivation or destruction of personal property did not constitute a cognizable § 1983 claim because Plaintiff had an adequate state-law remedy and therefore did not allege a constitutional violation.
2. Because the federal claim was dismissed, the court declined to exercise supplemental jurisdiction over any prospective state-law claims.
3. The action was dismissed for failure to state a claim upon which relief may be granted under 28 U.S.C. § 1915A.

KEY QUOTATIONS

“However, the Court previously informed Mr. Howard that the deprivation or destruction of personal property is not a cognizable 42 U.S.C. § 1983 claim.”

“Therefore, this action is dismissed for failure to state a claim upon which relief can be granted.”

“A plaintiff can plead himself out of court by pleading facts that show that he has no legal claim.”

FACTUAL BACKGROUND

Plaintiff alleged that the prospective defendants caused the destruction or loss of his personal property. In response to the order to show cause, he submitted materials concerning a tort claim, property inventories, and grievances, but did not identify a viable federal constitutional claim. The court determined that an adequate state-law remedy was available for the alleged property deprivation.

PROCEDURAL HISTORY

The court's prior screening order dismissed the complaint and gave Plaintiff an opportunity to show cause why the action should not be dismissed. Plaintiff responded by stating that he had exhausted his remedies and attaching tort-claim, property-inventory, and grievance materials. The court concluded that the response confirmed Plaintiff was pursuing a property-loss claim that did not state a viable federal claim, dismissed the action, and directed entry of final judgment.

DISPOSITION

dismissed

CASES CITED

- Glenn v. Vanihel, No. 2:22-cv-00030-JMS-MG, 2022 WL 3043528, *2 (S.D. Ind. Aug. 2, 2022)
- Hagans v. Lavine, 415 U.S. 528, 536-37 (1974)
- In re African-Am. Slave Descendants Litig., 471 F.3d 754, 757-58 (7th Cir. 2006)
- Luevano v. Wal-Mart Stores, Inc., 722 F.3d 1014, 1022 (7th Cir. 2013)
- Jennings v. City of Indianapolis, 637 F. App'x 954, 954-55 (7th Cir. 2016)
- Epstein v. Epstein, 843 F.3d 1147, 1150 (7th Cir. 2016)
- Hill v. Madison Cty., Ill., 983 F.3d 904, 906 (7th Cir. 2020)

OPINION

HOWARD

PER CURIAM.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF INDIANA

TERRE HAUTE DIVISION

THOMAS JEROME HOWARD, JR.,)

) Plaintiff,)) v.) No. 2:26-cv-00021-JPH-MKK) CHRISTOP SIMMERMAN, et al.,))
Defendants.)

ORDER DISMISSING ACTION AND DIRECTING ENTRY OF FINAL JUDGMENT

The Court's screening order at Docket No. 11 dismissed the complaint pursuant to 28 U.S.C. § 1915A. Plaintiff, Thomas Jerome Howard, Jr., was given time in which to show cause why this action should not be dismissed because, for the reasons provided, Mr. Howard's complaint failed to state a claim upon which relief may be granted. Dkt. 11 at 2-5. Mr. Howard has filed a response to the order to show cause. Dkt. 13. In his response, Mr. Howard only states "I believe I've had filed out all my remedies and here are my [exhibits] 1-8." Id. (as written). Mr. Howard attached his tort claim response, inventory sheets, and his grievance responses. Dkt. 13-1. Mr. Howard's response makes clear that he is pursuing his claim that the prospective defendants caused the destruction or loss of his personal property. However, the Court previously informed Mr. Howard that the deprivation or destruction of personal property is not a cognizable 42 U.S.C. § 1983 claim. Because Mr. Howard has an adequate state law remedy, the alleged deprivation of his property was not a constitutional violation. Glenn v. Vanihel, No. 2:22-cv-00030-JMS-MG, 2022 WL 3043528, *2 (S.D. Ind. Aug. 2, 2022). Because Mr. Howard has failed to state a viable federal claim, he may not rely on the Court's supplemental jurisdiction to entertain any prospective state- law claims. See 42 U.S.C. § 1367(c)(3); Hagans v. Lavine, 415 U.S. 528, 536-37

(1974); *In re African-Am. Slave Descendants Litig.*, 471 F.3d 754,757-58 (7th Cir. 2006). For the same reasons stated in the Court's screening order, Mr. Howard's allegations fail to state a claim. Dkt. 11. Therefore, this action is dismissed for failure to state a claim upon which relief can be granted. 28 U.S.C. § 1915A; See *Luevano v. Wal-Mart Stores, Inc.*, 722 F.3d 1014, 1022 (7th Cir. 2013); *Jennings v. City of Indianapolis*, 637 F. App'x 954, 954–955 (7th Cir. 2016). "A plaintiff can plead himself out of court by pleading facts that show that he has no legal claim." *Epstein v. Epstein*, 843 F.3d 1147, 1150 (7th Cir. 2016) (internal quotation omitted). Also, because this case is being dismissed for failure to state a claim, the plaintiff is warned that it may constitute a "strike" under 28 U.S.C. § 1915(g), which limits a prisoner's ability to proceed in forma pauperis after having three cases or appeals dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted. See *Hill v. Madison Cty., Ill.*, 983 F.3d 904, 906 (7th Cir. 2020) ("It makes good sense for a judge who believes a dismissal to come within the scope of § 1915(g) to include notice to that effect," even though later courts must make the conclusive determination of whether each prior dismissal meets the statutory definition). Final judgment shall now issue. SO ORDERED. Date: 5/21/2026 SJamu Patrick Hanlon James Patrick Hanlon United States District Judge Southern District of Indiana Distribution: THOMAS JEROME HOWARD, JR. 136138 WABASH VALLEY - CF Wabash Valley Correctional Facility Electronic Service Participant — Court Only