

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

McCright v. Andes

McCright · No. 24-cv-08695-RFL · Decided July 28, 2025

SUMMARY

The United States District Court for the Northern District of California screened a state prisoner’s second amended complaint under 28 U.S.C. § 1915A. The court found cognizable Eighth Amendment failure-to-protect and deliberate-indifference claims against L. Peters, E. Weaver, and C. Roberts, dismissed the ADA claim and other defendants without leave to amend, ordered service, and established dispositive-motion deadlines.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Rita F. Lin
JURISDICTION	United States District Court for the Northern District of California
DECIDED	July 28, 2025
DOCKET	24-cv-08695-RFL
DISPOSITION	other
PROCEDURAL POSTURE	Screening of a state prisoner’s second amended complaint under 28 U.S.C. § 1915A(a).
STANDARD OF REVIEW	Under 28 U.S.C. § 1915A, the court must screen a prisoner complaint seeking redress from a governmental entity or officer and dismiss claims that are frivolous, malicious, fail to state a claim, or seek relief from an immune defendant. Pro se pleadings are liberally construed, but the complaint must contain sufficient factual matter to state a facially plausible claim.
PRECEDENTIAL VALUE	Nonprecedential district-court screening order
PARTIES	Colvin McCright v. Chance Andes, L. Peters, E. Weaver, C. Roberts, Avila, Moody, Amador, Hammond, Eberly

TOPICS

- prisoners rights
- section 1983
- civil rights
- ada / disability
- service of process

PRACTICE AREAS

prisoner civil rights

constitutional torts

disability discrimination

federal civil procedure

QUESTIONS PRESENTED

1. Whether the second amended complaint stated an Eighth Amendment failure-to-protect claim against Peters, Weaver, and Roberts.
2. Whether the second amended complaint stated an Eighth Amendment deliberate-indifference-to-serious-medical-needs claim against Peters, Weaver, and Roberts.
3. Whether the allegations stated a Title II ADA claim based on denial of single-cell status and issuance of a rules violation report.
4. Whether the remaining defendants and previously dismissed due-process claim should remain in the action.

HOLDINGS

1. The second amended complaint plausibly stated an Eighth Amendment failure-to-protect claim against Peters, Weaver, and Roberts because it alleged a sufficiently serious danger from cellmate attacks and deliberate indifference to that danger.
2. The second amended complaint plausibly stated an Eighth Amendment deliberate-indifference claim against Peters, Weaver, and Roberts.
3. The ADA claim failed because McCright alleged inadequate treatment or denial of a requested accommodation, not exclusion from a public service, program, or activity by reason of disability.
4. The ADA claim was dismissed without leave to amend because McCright had previously been given an opportunity to amend and failed to cure the identified deficiency.

KEY QUOTATIONS

“A prisoner need not wait until he is assaulted or harmed to state a claim and obtain relief.” (Discussion C.1)

“The ADA prohibits discrimination because of disability, not inadequate treatment for disability.” (Discussion C.3)

FACTUAL BACKGROUND

McCright, a California state prisoner, alleged that a prior cellmate assault broke his jaw and that he had experienced other fights with cellmates. He alleged that placement with a cellmate caused PTSD, fear of assault, and an inability to sleep, yet Peters, Weaver, and Roberts required him to accept a cellmate and issued a rules violation report when he refused. He also alleged that Avila, Moody, Amador, Hammond, and Eberly denied his request for single-cell disability accommodations.

PROCEDURAL HISTORY

McCrigh filed a pro se, in forma pauperis civil-rights complaint under 42 U.S.C. § 1983. The original complaint and first amended complaint were screened, with claims dismissed and leave to amend granted. On review of the second amended complaint, the court found cognizable Eighth Amendment failure-to-protect and deliberate-indifference claims against Peters, Weaver, and Roberts, dismissed the ADA claim and the remaining defendants without leave to amend, ordered service, and directed defendants to file a dispositive motion.

DISPOSITION

other

CASES CITED

- *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1988)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)
- *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 556, 570 (2007)
- *Clegg v. Cult Awareness Network*, 18 F.3d 752, 754-55 (9th Cir. 1994)
- *West v. Atkins*, 487 U.S. 42, 48 (1988)
- *Farmer v. Brennan*, 511 U.S. 825, 834, 845 (1994)
- *Gonzalez v. CDCR*, 739 F.3d 1226, 1235 (9th Cir. 2014)
- *Estelle v. Gamble*, 429 U.S. 97, 104 (1976)
- *McGuckin v. Smith*, 974 F.2d 1050, 1059 (9th Cir. 1992)
- *WMX Techs., Inc. v. Miller*, 104 F.3d 1133, 1136 (9th Cir. 1997) (en banc)
- *Toguchi v. Chung*, 391 F.3d 1051, 1058-60 (9th Cir. 2004)
- *Hyer v. City of Honolulu*, 118 F.4th 1044, 1065 (9th Cir. 2024)
- *Pa. Dep't of Corr. v. Yeskey*, 524 U.S. 206, 210 (1998)
- *Simmons v. Navajo County, Ariz.*, 609 F.3d 1011, 1022 (9th Cir. 2010)
- *Marlor v. Madison Ct., Idaho*, 50 F. App'x 872, 873 (9th Cir. 2002)
- *Bird v. Cal. Dep't of Corr. & Rehab. (CDCR)*, 2016 WL 7383307, at *4 (E.D. Cal. Dec. 21, 2016)
- *Zucco Partners, LLC v. Digimarc Corp.*, 552 F.3d 981, 1007 (9th Cir. 2009)
- *Albino v. Baca*, 747 F.3d 1162 (9th Cir. 2014)
- *In re Olson*, 37 Cal. App. 3d 783 (Cal. Ct. App. 1974)
- *Woods v. Carey*, 684 F.3d 934, 939-41 (9th Cir. 2012)
- *Rand v. Rowland*, 154 F.3d 952, 962-963 (9th Cir. 1998)
- *Armstrong v. Newsom*, Case No. 94-cv-2307 CW

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