

**UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
GEORGIA, MACON DIVISION**

Bradley M. Houston v. Officer Whitney

Houston v. Whitney · No. 5:25-cv-409-MTT-CHW · Decided February 20, 2026

OPINION

WHITNEY

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

BRADLEY M HOUSTON, : Plaintiff, : v. : Case No. 5:25-cv-409-MTT-CHW OFFICER
WHITNEY, : Defendant. : _____ :

ORDER AND RECOMMENDATION

In accordance with the Court's previous orders and instructions, pro se Plaintiff Bradley M. Houston, an inmate in the Valdosta State Prison in Valdosta, Georgia, has filed a complete and proper motion for leave to proceed in forma pauperis ("IFP") (ECF No. 6). He has also filed a letter concerning his safety in which he requests preliminary injunctive relief (ECF No. 7). For the following reasons, Plaintiff's motion for leave to proceed IFP is GRANTED, and Plaintiff's Eighth Amendment medical treatment claims shall proceed against Defendant Whitney. It is RECOMMENDED, however, that Plaintiff's request for preliminary injunctive relief be DENIED.

MOTION TO PROCEED IFP

Plaintiff first seeks leave to proceed without prepayment of the filing fee or security therefor pursuant to 28 U.S.C. § 1915(a). Plaintiff's submissions demonstrate that he is presently unable to pay the cost of commencing this action. His motions to proceed IFP (ECF Nos. 4, 6) are GRANTED. However, even if a prisoner is allowed to proceed in forma pauperis, he must nevertheless pay the full amount of the \$350.00 filing fee. 28 U.S.C. § 1915(b)(1). If the prisoner has sufficient assets, he must pay the filing fee in a lump sum. If sufficient assets are not in the account, the court must assess an initial partial filing fee based on the assets available. Despite this requirement, a prisoner may not be prohibited from bringing a civil action because he has no assets and no means by which to pay the initial partial filing fee. 28 U.S.C. § 1915(b)(4). In the event the prisoner has no assets, payment of the partial filing fee prior to filing will be waived. Plaintiff's submissions indicate that he is unable to pay the initial partial filing fee. Accordingly, it is ORDERED that his complaint be filed and that he be allowed to proceed without paying an initial partial filing fee. I. Directions to Plaintiff's Custodian Hereafter, Plaintiff will be required to make monthly payments of 20% of the deposits made to his prisoner account during the preceding

month toward the full filing fee. The Clerk of Court is DIRECTED to send a copy of this Order to Plaintiff's current place of incarceration. It is ORDERED that the warden of the institution wherein Plaintiff is incarcerated, or the sheriff of any county wherein he is held in custody, and any successor custodians, shall each month cause to be remitted to the Clerk of this Court twenty percent (20%) of the preceding month's income credited to Plaintiff's account at said institution until the \$350.00 filing fee has been paid in full. 28 U.S.C. § 1915(b)(2). In accordance with provisions of the Prison Litigation Reform Act ("PLRA"), Plaintiff's custodian is hereby authorized to forward payments from the prisoner's account to the Clerk of Court each month until the filing fee is paid in full, provided the amount in the account exceeds \$10.00. It is ORDERED that collection of monthly payments from Plaintiff's trust fund account shall continue until the entire \$350.00 has been collected, notwithstanding the dismissal of Plaintiff's lawsuit or the granting of judgment against him prior to the collection of the full filing fee. II. Plaintiff's Obligations on Release from Custody Plaintiff should keep in mind that his release from incarceration/detention does not release him from his obligation to pay the installments incurred while he was in custody. Plaintiff remains obligated to pay those installments justified by the income in his prisoner trust account while he was detained. If Plaintiff fails to remit such payments, the Court authorizes collection from Plaintiff of any balance due on these payments by any means permitted by law. Plaintiff's Complaint may be dismissed if he is able to make payments but fails to do so or if he otherwise fails to comply with the provisions of the PLRA.

PRELIMINARY SCREENING OF PLAINTIFF'S AMENDED COMPLAINT

I. Standard of Review The PLRA directs courts to conduct a preliminary screening of every complaint filed by a prisoner who seeks redress from a government entity, official, or employee. 28 U.S.C. § 1915A(a). Courts must also screen complaints filed by a plaintiff proceeding IFP. 28 U.S.C. § 1915(e). Both statutes apply in this case, and the standard of review is the same. "Pro se filings are generally held to a less stringent standard than those drafted by attorneys and are liberally construed." *Carmichael v. United States*, 966 F.3d 1250, 1258 (11th Cir. 2020) (citation omitted). Still, the Court must dismiss a prisoner complaint if it "(1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or (2) seeks monetary relief from a defendant who is immune from such relief." 28 U.S.C. § 1915A(b); see also 28 U.S.C. § 1915(e). A claim is frivolous if it "lacks an arguable basis either in law or in fact." *Miller v. Donald*, 541 F.3d 1091, 1100 (11th Cir. 2008) (citations omitted). On preliminary review, the Court may dismiss claims that are based on "indisputably meritless legal" theories and "claims whose factual contentions are clearly baseless." *Id.* (citations omitted). A claim can be dismissed as malicious if it is knowingly duplicative or otherwise amounts to an abuse of the judicial process. *Daker v. Ward*, 999 F.3d 1300, 1308, 1310 (11th Cir. 2021) (affirming dismissal of duplicative complaint "in light of [prisoner's] history as a prolific serial filer"). A complaint fails to state a claim if it does not include "sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v.*

Twombly, 550 U.S. 544, 570 (2007)). “Factual allegations [in a complaint] must be enough to raise a right to relief above the speculative level[.]” Twombly, 550 U.S. at 555 (citations omitted). In other words, the complaint must allege enough facts “to raise a reasonable expectation that discovery will reveal evidence” supporting a claim. *Id.* at 556. “Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Iqbal*, 556 U.S. at 678 (citing *Twombly*, 550 U.S. at 555). To state a claim for relief under § 1983, a plaintiff must allege that (1) an act or omission deprived him of a right, privilege, or immunity secured by the Constitution or a statute of the United States; and (2) the act or omission was committed by a person acting under color of state law. *Hale v. Tallapoosa Cnty.*, 50 F.3d 1579, 1582 (11th Cir. 1995). If a litigant cannot satisfy these requirements or fails to provide factual allegations in support of his claim or claims, the complaint is subject to dismissal. See, e.g., *Bingham v. Thomas*, 654 F.3d 1171, 1176-77 (11th Cir. 2011) (affirming dismissal of certain claims at preliminary screening because prisoner failed to allege sufficient facts to show a violation of his rights), abrogated on other grounds by *Wade v. McDade*, 106 F.4th 1251, 1255 (11th Cir. 2024) (en banc).

II. Factual Allegations and Plaintiff’s Claims

The claims in Plaintiff’s Amended Complaint arise from his confinement in the Macon State Prison. ECF No. 3 at 6.1 Plaintiff contends that on one Sunday in May of 2025, he notified medical and Defendant Whitney, a prison officer, that he could not breathe. *Id.* Medical told Defendant Whitney that Plaintiff needed to be removed from the cell, but Defendant Whitney refused to follow these instructions or take Plaintiff to medical for help. *Id.* Plaintiff’s condition did not improve, and he notified another officer of his breathing difficulties the next day. *Id.* This officer escorted Plaintiff to medical, where it was determined that Plaintiff was not getting enough oxygen. *Id.*

1 The Amended Complaint is the operative pleading in this action. See *Pintando v. Miami- Dade Hous. Agency*, 501 F.3d 1241, 1243 (11th Cir. 2007) (holding that generally, “[a]n amended pleading supersedes the former pleading; the original pleading is abandoned by the amendment, and is no longer a part of the pleader’s averment against his adversary” (alteration in original) (citation omitted)). Plaintiff “was rushed to the hospital” and placed on an oxygen tank. *Id.* Plaintiff remained hospitalized for about five days, and even after he was released his “breathing condition was so bad that the Doctor from the prison didn’t want to take [him] back.” *Id.* Plaintiff thus contends Defendant Whitney’s failure to provide him with any medical treatment violated his constitutional rights, and as a result he seeks a transfer to a “decent prison” and monetary damages. *Id.* A prison official who is deliberately indifferent to an inmate’s serious medical needs violates the Eighth Amendment to the United States Constitution. See *Farrow v. West*, 320 F.3d 1235, 1243 (11th Cir. 2003). To state an actionable claim in this context, a plaintiff must allege facts sufficient to establish: “(1) a serious medical need; (2) the defendants’ deliberate indifference to that need; and (3) causation between that indifference and the plaintiff’s injury.” *Mann v. Taser Int’l, Inc.*, 588 F.3d 1291, 1306-07 (11th Cir. 2009). The first element is objective and requires a plaintiff to set forth a “serious medical need,” which is “one that has been diagnosed by a

physician as mandating treatment or one that is so obvious that even a lay person would easily recognize the necessity for a doctor's attention." Farrow, 320 F.3d at 1243 (internal quotation marks omitted). A serious medical need can also arise if "a delay in treating the need worsens the condition." Mann, 588 F.3d at 1307. "In either case, 'the medical need must be one that, if left unattended, poses a substantial risk of serious harm.'" Id. (quoting Farrow, 320 F.3d at 1243). Establishing the second element, deliberate indifference, requires a plaintiff plausibly to allege that the defendant: (1) "was subjectively aware that the inmate was at risk of serious harm"; (2) "disregarded that risk"; and (3) "acted with 'subjective recklessness as used in the criminal law.'" Wade, 106 F.4th at 1255 (quoting Farmer v. Brennan, 511 U.S. 825, 839 (1994)). "Subjective recklessness" requires the defendant to be "actually, subjectively aware that his own conduct caused a substantial risk of serious harm to the plaintiff," although a defendant cannot be held liable for a constitutional violation if he responds reasonably to a risk of which he is aware. Id. at 1262. The final element simply requires "that a defendant have a causal connection to the constitutional harm." Goebert v. Lee Cnty., 510 F.3d 1312, 1327 (11th Cir. 2007). "[A]s with any tort claim, [plaintiff] must show that the injury was caused by the defendant's wrongful conduct." Id. at 1326. "Causation, of course, can be shown by personal participation in the constitutional violation." Id. at 1327. When liberally construed, Plaintiff's allegations suggest that Defendant Whitney knew Plaintiff was having difficulty breathing and that medical had advised her that Plaintiff needed treatment. Despite this knowledge, Defendant Whitney did nothing to help Plaintiff. At this early stage of the litigation, the Court cannot say Plaintiff's Eighth Amendment claims against Defendant Whitney are necessarily frivolous. As such, they shall proceed for further factual development. III. Claims for Preliminary Injunctive Relief Plaintiff has also filed a letter to the Court in which he contends he "fear[s] for [his] life at Valdosta State Prison." ECF No. 7 at 1. Plaintiff states that on November 14, 2025, another inmate approached him and said "he was hired to harass [Plaintiff] and assault [him]." Id. Shortly thereafter, another inmate showed Plaintiff a cell phone that contained text messages from Kendrick Jackson, a warden at Calhoun State Prison, with instructions on "how [Plaintiff] was to be harassed and oppressed." Id. Plaintiff thus requests that this Court enter "some injunction or restraining orders to better protect [him] from harassment and oppression." Id. The Court will thus construe Plaintiff's request as one for a temporary restraining order ("TRO") or preliminary injunctive relief. A TRO or preliminary injunction is a drastic remedy used primarily to preserve the status quo rather than grant most or all of the substantive relief sought in the complaint. See, e.g., Cate v. Oldham, 707 F.2d 1176, 1185 (11th Cir. 1983); Fernandez-Roque v. Smith, 671 F.2d 426, 429 (11th Cir. 1982). Factors a movant must show to be entitled to a TRO include: "(1) a substantial likelihood of ultimate success on the merits; (2) the TRO is necessary to prevent irreparable injury; (3) the threatened injury outweighs the harm the TRO would inflict on the non-movant; and (4) the TRO would serve the public interest." Ingram v. Ault, 50 F.3d 898, 900 (11th Cir. 1995).² Plaintiff does not clearly address these factors in his letter, and at this juncture the facts have not been sufficiently

developed to conclude that there is a substantial likelihood that Plaintiff will ultimately prevail on the merits. Perhaps more importantly, however, the “party moving for a preliminary injunction must necessarily establish a relationship between the injury claimed in the party’s motion and the conduct asserted in the complaint.” *Colvin v. Caruso*, 605 F.3d 282, 300 (6th Cir. 2010) (quoting *Devose v. 2*). The standard for obtaining a TRO is the same as the standard for obtaining a preliminary injunction. See *Parker v. State Bd. of Pardons & Paroles*, 275 F.3d 1032, 1034-35 (11th Cir. 2001) (per curiam); *Windsor v. United States*, 379 F. App’x 912, 916-17 (11th Cir. 2010) (per curiam). *Herrington*, 42 F.3d 470, 471 (8th Cir. 1994)). Requiring such a relationship furthers the purpose of preliminary injunctive relief, which “is to protect the movant, during the pendency of the action, from being harmed in the manner in which the movant contends [he] was or will be harmed through the illegality alleged in the complaint.” *Id.* (alterations in original) (quoting *Omega World Travel, Inc. v. Trans World Airlines*, 111 F.3d 14, 16 (4th Cir. 1997)). Plaintiff has not established a relationship between Defendant Whitney’s alleged failure to provide him with adequate medical treatment at Macon State Prison and Warden Jackson’s alleged threats to have Plaintiff harmed at Valdosta State Prison. Plaintiff thus has “no grounds to seek an injunction pertaining to allegedly impermissible conduct not mentioned in his original complaint.” *Id.* His claims for preliminary injunctive relief or a TRO should be denied.³

CONCLUSION

Based on the foregoing, Plaintiff’s motions to proceed IFP (ECF Nos. 4, 6) are GRANTED, and Plaintiff’s Eighth Amendment claim against Defendant Whitney shall proceed for further factual development. It is RECOMMENDED, however, that any request for preliminary injunctive relief or a TRO be DENIED.

OBJECTIONS

Pursuant to 28 U.S.C. § 636(b)(1), the parties may serve and file written objections to these recommendations with the Honorable Marc T. Treadwell, United States District Court. The Court also notes that Plaintiff already has a case proceeding against Warden Jackson, *Houston v. Jackson*, Case No. 5:25-cv-61-TES-AGH (M.D. Ga. Feb. 18, 2025). It would likely be more appropriate to raise any claims concerning Warden Jackson’s conduct in that case. Judge, WITHIN FOURTEEN (14) DAYS after being served with a copy of this Recommendation. Any objection is limited in length to TWENTY (20) PAGES. See M.D. Ga. L.R. 7.4. The parties may seek an extension of time in which to file written objections, provided a request for an extension is filed prior to the deadline for filing written objections. Failure to object in accordance with the provisions of § 636(b)(1) waives the right to challenge on appeal the district judge’s order based on factual and legal conclusions to which no objection was timely made. See 11th Cir. R. 3-1.

ORDER FOR SERVICE

Having found that Plaintiff has made colorable constitutional violation claims against Defendant Whitney, it is accordingly ORDERED that service be made on that Defendant and that she file an Answer, or such other response as may be appropriate under Rule 12, 28 U.S.C. § 1915, and the

Prison Litigation Reform Act. Each Defendant is reminded of the duty to avoid unnecessary service expenses, and of the possible imposition of expenses for failure to waive service pursuant to Rule 4(d).

DUTY TO ADVISE OF ADDRESS CHANGE

During the pendency of this action, all parties shall keep the Clerk of this Court and all opposing attorneys and/or parties advised of their current address. Failure to promptly advise the Clerk of a change of address may result in the dismissal of a party's pleadings.

DUTY TO PROSECUTE ACTION

Plaintiff is also advised that he must diligently prosecute his Complaint or face the possibility that it will be dismissed under Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute. Defendant is similarly advised that she is expected to diligently defend all allegations made against her and to file timely dispositive motions as hereinafter directed. This matter will be set down for trial when the Court determines that discovery has been completed and that all motions have been disposed of or the time for filing dispositive motions has passed.

FILING AND SERVICE OF MOTIONS, PLEADINGS, AND CORRESPONDENCE

It is the responsibility of each party to file original motions, pleadings, and correspondence with the Clerk of Court. A party need not serve the opposing party by mail if the opposing party is represented by counsel. In such cases, any motions, pleadings, or correspondence shall be served electronically at the time of filing with the Court. If any party is not represented by counsel, however, it is the responsibility of each opposing party to serve copies of all motions, pleadings, and correspondence upon the unrepresented party and to attach to said original motions, pleadings, and correspondence filed with the Clerk of Court a certificate of service indicating who has been served and where (i.e., at what address), when service was made, and how service was accomplished.

DISCOVERY

Plaintiff shall not commence discovery until an answer or dispositive motion has been filed on behalf of the Defendant from whom discovery is sought by the Plaintiff. The Defendant shall not commence discovery until such time as an answer or dispositive motion has been filed. Once an answer or dispositive motion has been filed, the parties are authorized to seek discovery from one another as provided in the Federal Rules of Civil Procedure. The deposition of the Plaintiff, a state/county prisoner, may be taken at any time during the time period hereinafter set out provided prior arrangements are made with his custodian. Plaintiff is hereby advised that failure to submit to a deposition may result in the dismissal of his lawsuit under Rule 37 of the Federal Rules of Civil Procedure. IT IS HEREBY ORDERED that discovery (including depositions and the service of written discovery requests) shall be completed within 90 days of the date of filing of an answer or dispositive motion by the Defendant (whichever comes first) unless an extension is otherwise granted by the court upon a showing of good cause therefor or a protective order is sought by the

defendant and granted by the court. This 90-day period shall run separately as to Plaintiff and Defendant beginning on the date of filing of Defendant's answer or dispositive motion (whichever comes first). The scheduling of a trial may be advanced upon notification from the parties that no further discovery is contemplated or that discovery has been completed prior to the deadline. Discovery materials shall not be filed with the Clerk of Court. No party shall be required to respond to any discovery not directed to him/her or served upon him/her by the opposing counsel/party. The undersigned incorporates herein those parts of the Local Rules imposing the following limitations on discovery: except with written permission of the court first obtained, interrogatories may not exceed TWENTY-FIVE (25) to each party, requests for production of documents and things under Rule 34 of the Federal Rules of Civil Procedure may not exceed TEN (10) requests to each party, and requests for admissions under Rule 36 of the Federal Rules of Civil Procedure may not exceed FIFTEEN (15) requests to each party. No party shall be required to respond to any such requests which exceed these limitations. IT IS FURTHER ORDERED that Defendant comply with the attached "Required Disclosure of the Existence of Video or Photographic Evidence When Plaintiff Files Suit Against One or More Georgia Department of Corrections Employees Relating to Events That Occurred During Plaintiff's Incarceration within the Georgia Department of Corrections."

REQUESTS FOR DISMISSAL AND/OR JUDGMENT

The Court shall not consider requests for dismissal of or judgment in this action, absent the filing of a motion therefor accompanied by a brief/memorandum of law citing supporting authorities. Dispositive motions should be filed at the earliest time possible, but in any event no later than one hundred - twenty (120) days from when the discovery period begins unless otherwise directed by the Court. SO ORDERED AND RECOMMENDED, this 20th day of February, 2026. s/ Charles H. Weigle Charles H. Weigle United States Magistrate Judge

REQUIRED DISCLOSURE OF THE EXISTENCE OF VIDEO OR PHOTOGRAPHIC EVIDENCE WHEN PLAINTIFF FILES SUIT AGAINST ONE OR MORE GEORGIA DEPARTMENT OF CORRECTIONS EMPLOYEES RELATING TO EVENTS THAT OCCURRED DURING PLAINTIFF'S INCARCERATION WITHIN THE GEORGIA DEPARTMENT OF CORRECTIONS

Counsel for the Defendants shall confer with the Defendants and with appropriate Georgia Department of Corrections ("GDC") staff, and no later than 30 days from the date of entry of this Required Disclosure file the following disclosures:

- (1) State whether, at the time of the incident alleged in the complaint, the facility had stationary or mounted cameras in the area where that incident allegedly occurred.
- (2) If so, state whether those cameras recorded the events alleged by Plaintiff, whether those recordings have been preserved, and the identity of the custodian of the recordings. If the recordings have not been preserved, explain in detail why.

- (3) State whether body-worn or handheld cameras recorded the events alleged by Plaintiff, whether those recordings have been preserved, and identify the custodian of the recordings. If the recordings have not been preserved, explain in detail why.
- (4) If Plaintiff complains of a use of force (either anticipated, spontaneous, or unanticipated) as that term is defined in the GDC Standard Operating Procedure, Use of Video Recording Equipment, Policy No. 204.11, and the GDC Standard Operating Procedure, Use of Force and Restraint for Offender Control, Policy No. 209.04, identify the custodian of any recordings of the events alleged. If there are no available recordings, explain in detail why the events were not recorded or, if recorded but no longer available, why the recordings were not preserved.
- (5) Identify all GDC employees contacted to gather the information required by this disclosure. Counsel is directed to preserve all video recordings and any photographs that may have captured the events giving rise to the complaint. Failure to do so may result in the imposition of sanctions.