

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
WISCONSIN

**Braxton Lewis Clarke v. Trinity Services Group, Inc., State Health
Inspector, Captain Johnson-Williams, and Superintendent Chantell
Jewell**

Clarke · No. 25-CV-1838-JPS · Decided April 1, 2026

OPINION

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WISCONSIN BRAXTON LEWIS CLARKE, Plaintiff, v. Case No. 25-CV-1838-JPS TRINITY SERVICES GROUP, INC, STATE HEALTH INSPECTOR, ORDER CAPTAIN JOHNSON-WILLIAMS, and SUPERINTENDENT CHANTELL JEWELL, Defendants. Plaintiff Braxton Lewis Clarke, an inmate confined at Vilas County Jail, filed a pro se complaint under 42 U.S.C. § 1983 alleging that the Defendants violated his constitutional rights.

ECF No. 1. This Order screens the complaint and resolves Plaintiff’s motions for leave to proceed without prepaying the filing fee and motion to appoint counsel. 1. MOTIONS FOR LEAVE TO PROCEED WITHOUT PREPAYING THE FILING FEE The Prison Litigation Reform Act (“PLRA”) applies to this case because Plaintiff was a prisoner when he filed his complaint. See 28 U.S.C. § 1915(h).

The PLRA allows the Court to give a prisoner plaintiff the ability to proceed with his case without prepaying the civil case filing fee. Id. § 1915(a)(2). When funds exist, the prisoner must pay an initial partial filing fee. 28 U.S.C. § 1915(b)(1). He must then pay the balance of the \$350 filing fee over time, through deductions from his prisoner account. Id. On December 23, 2025, the Court ordered Plaintiff to pay an initial partial filing fee of \$3.47.

ECF No. 13. Plaintiff paid that fee on January 12, 2026. The Court will grant Plaintiff’s motion for leave to proceed without prepaying the filing fee, ECF No. 4, and will deny his duplicative motion, ECF No. 6, as moot. Plaintiff must pay the remainder of the filing fee over time in the manner explained at the end of this Order. 2. SCREENING THE COMPLAINT 2.1 Federal Screening Standard Under the PLRA, the Court must screen complaints brought by prisoners seeking relief from a governmental entity or an officer or employee of a governmental entity.

28 U.S.C. § 1915A(a). The Court must dismiss a complaint if the prisoner raises claims that are legally “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b).

In determining whether the complaint states a claim, the Court applies the same standard that applies to dismissals under Federal Rule of Civil Procedure 12(b)(6). See *Cesal v. Moats*, 851 F.3d 714, 720 (7th Cir. 2017) (citing *Booker-El v. Superintendent, Ind. State Prison*, 668 F.3d 896, 899 (7th Cir. 2012)). A complaint must include “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed.

R. Civ. P. 8(a)(2). The complaint must contain enough facts, accepted as true, to “state a claim for 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)). “A claim has facial plausibility when the plaintiff pleads factual content that allows a court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* (citing *Twombly*, 550 U.S. at 556).

To state a claim for relief under 42 U.S.C. § 1983, a plaintiff must allege that someone deprived him of a right secured by the Constitution or the laws of the United States and that whoever deprived him of this right was acting under the color of state law. *D.S. v. E. Porter Cnty. Sch. Corp.*, 799 F.3d 793, 798 (7th Cir. 2015) (citing *Buchanan–Moore v. County of Milwaukee*, 570 F.3d 824, 827 (7th Cir.

2009)). The Court construes pro se complaints liberally and holds them to a less stringent standard than pleadings drafted by lawyers. *Cesal*, 851 F.3d at 720 (citing *Perez v. Fenoglio*, 792 F.3d 768, 776 (7th Cir. 2015)). 2.2 Plaintiff’s Allegations Plaintiff alleges that Defendants conspired to cover up food poisoning that happened between April and June 2025.

ECF No. 1 at 2. Trinity Services Group, Inc. supplied multiple meals of spoiled and/or contaminated food during this time. *Id.* The health inspector claimed the inmates got sick as a result of a virus; Plaintiff later found out it was E. coli that caused the food poisoning symptoms. *Id.* at 2–3.

On April 23, 2025, Plaintiff was served a Trinity meal that caused him to have symptoms of food poisoning. *Id.* at 3. Plaintiff was not seen for three days and was only given Gatorade and another substance. *Id.* On June 30, 2025, Plaintiff was served moldy bread. *Id.* 2.3 Analysis The Court finds that Plaintiff may not proceed on an Eighth Amendment conditions of confinement claim.

A prisoner’s claim of unconstitutional conditions of confinement is analyzed under the Eighth Amendment’s cruel and unusual punishment clause. See *Farmer v. Brennan*, 511 U.S. 832, 834 (1994). A prisoner is entitled to live in conditions that do not amount to “punishment.” *Bell v. Wolfish*, 441 U.S. 520, 535 (1979). Detainees are entitled to be confined under humane conditions that provide for their “basic human needs.” *Rhodes v. Chapman*, 452 U.S. 337, 347 (1981). “The Constitution does not mandate comfortable prisons, but neither does it permit inhumane ones[.]” *Snipes v. DeTella*, 95 F.3d 586, 590 (7th Cir.

1996). To establish a constitutional violation with respect to an inmate's living conditions, he must be able to demonstrate both: (1) the conditions were objectively so adverse that they deprived him "of the minimal civilized measure of life's necessities," and (2) the defendants acted with deliberate indifference with respect to the conditions. *Townsend v. Fuchs*, 522 F.3d 765, 773 (7th Cir.

2008) (quoting *Farmer*, 511 U.S. at 834). "Life's necessities include shelter, heat, clothing, sanitation, and hygiene items." *Woods v. Schmeltz*, No. 14-CV-1336, 2014 WL 7005094, at *1 (C.D. Ill. Dec. 11, 2014) (citing *Gillis v. Litscher*, 468 F.3d 488, 493 (7th Cir. 2006)); see also *Budd v. Motley*, 711 F.3d 840, 842–43 (7th Cir. 2013). Depending on the "amount and duration of the deprivation," denying a prisoner adequate nutrition can violate the prisoner's Eighth Amendment rights.

Reed v. McBride, 178 F.3d 849, 853 (7th Cir. 1999). Courts have found that instances of more "minor" deprivations did not meet the "objective seriousness" prong. See *Dickerson v. Milwaukee County*, No. 23-CV-1442-BHL, 2024 WL 233376 (E.D. Wis. Jan. 22, 2024) (holding that two consecutive missed meals did not "rise to the level of a constitutional violation"); *Stevens v. Carr*, No. 20-C-1735, 2021 WL 39542 (E.D.

Wis. Jan. 5, 2021) (holding that "a slice of meat, bread, and a handful of chips at meal time, along with two peanut butter and two jelly squeeze packs with four pieces of bread at breakfast" was not inadequate even if the plaintiff wanted more to eat); see also *Freeman v. Berge*, 441 F.3d 543 (7th Cir. 2006) (holding that withholding sporadic meals over two and a half years due to the inmate's refusal to follow health and safety policy conditions to receiving meals was not a cruel and unusual punishment because it was both self-inflicted and there is no evidence of "real suffering, extreme discomfort, or any lasting detrimental health consequences").

Here, the Court does not find that Plaintiff states sufficient factual allegations to proceed against Defendants for an Eighth Amendment conditions of confinement claim. Plaintiff alleges receiving spoiled food on various occasions and suffering food poisoning symptoms as a result.

As currently pled, however, Plaintiff's allegations at most show negligence. No facts indicate that Defendants were aware of the dangerous condition of the food prior to Plaintiff's injury. Plaintiff may state a state-law negligence claim; however, in the absence of a federal claim, the Court cannot exercise supplemental jurisdiction over a state-law negligence claim.

The Court will provide Plaintiff the opportunity to amend the complaint and provide more information. The Court will allow Plaintiff an opportunity to amend his complaint on or before April 22, 2026 to address the deficiencies identified in this order. If he chooses to offer an amended complaint, Plaintiff should provide the Court with enough facts to answer the following

questions: (1) What was the amount of food that was deprived because of Defendants' actions; and (2) What specific effects did Defendants' actions have on Plaintiff's health and wellbeing?

Plaintiff's amended complaint does not need to be long or contain legal language or citations to statutes or cases, but it does need to provide the Court and each defendant with notice of what each defendant allegedly did or did not do to violate his rights.

The Court is enclosing a copy of its amended complaint form and instructions. Plaintiff must list all of the defendants in the caption of his amended complaint. He should use the spaces on pages two and three to allege the key facts that give rise to the claims he wishes to bring, and to describe which defendants he believes committed the violations that relate to each claim.

If the space is not enough, Plaintiff may use up to five additional sheets of paper. Plaintiff is advised that the amended complaint must bear the docket number assigned to this case and must be labeled "Amended Complaint." The amended complaint supersedes the prior complaint and must be complete in itself without reference to the original complaint. See *Duda v. Bd. of Educ. of Franklin Park Pub. Sch. Dist. No. 84*, 133 F.3d 1054, 1056 (7th Cir. 1998). In *Duda*, the appellate court emphasized that in such instances, the "prior pleading is in effect withdrawn as to all matters not restated in the amended pleading." *Id.* at 1057 (citation omitted). If an amended complaint is received, it will become the operative complaint in this action, and the Court will screen it in accordance with 28 U.S.C. § 1915A.

Sch. Dist. No. 84, 133 F.3d 1054, 1056 (7th Cir. 1998). In *Duda*, the appellate court emphasized that in such instances, the "prior pleading is in effect withdrawn as to all matters not restated in the amended pleading." *Id.* at 1057 (citation omitted). If an amended complaint is received, it will become the operative complaint in this action, and the Court will screen it in accordance with 28 U.S.C. § 1915A.

3. MOTION TO APPOINT COUNSEL The Court will deny Plaintiff's motion to appoint counsel without prejudice. As a civil litigant, Plaintiff has "neither a constitutional nor statutory right to a court-appointed attorney." *James v. Eli*, 889 F.3d 320, 326 (7th Cir. 2018).

However, under 28 U.S.C. § 1915(e)(1), a "court may request an attorney to represent any person unable to afford counsel." A court should seek counsel to represent a plaintiff if: (1) he has made reasonable attempts to secure counsel; and (2) "the difficulty of the case—factually and legally—exceeds the particular plaintiff's capacity as a layperson to coherently present it." *Navejar v. Iyiola*, 718 F.3d 692, 696 (7th Cir. 2013) (quoting *Pruitt v. Mote*, 503 F.3d 647, 655 (7th Cir. 2007) (en banc)). Whether to appoint counsel in a particular case is left to a court's discretion. *James*, 889 F.3d at 326; *McCaa v. Hamilton*, 893 F.3d 1027, 1031 (7th Cir. 2018).

2013) (quoting *Pruitt v. Mote*, 503 F.3d 647, 655 (7th Cir. 2007) (en banc)). Whether to appoint counsel in a particular case is left to a court's discretion. *James*, 889 F.3d at 326; *McCaa v. Hamilton*, 893 F.3d 1027, 1031 (7th Cir. 2018).

The first element of *Pruitt* is fairly easy to satisfy, but it is not toothless, and it is not a mere technical condition of submitting a certain number of rejection letters. If it was, then a Wisconsin prisoner litigating a § 1983 action could submit rejection letters from ten randomly selected criminal defense lawyers from Nevada and call his work complete.

This cannot be. The purpose of the reasonable-efforts requirement is to ensure that if a court and private lawyers must expend scarce resources to provide counsel for a prisoner, he has at least made a good-faith effort to avoid those costs by getting a lawyer himself.

To fulfill this duty, a pro se prisoner should reach out to lawyers whose areas of practice suggest that they might consider taking his case. If he learns that some of the lawyers he has contacted do not, he should reach out to others before he concludes that no one will help him.

Here, Plaintiff has submitted no evidence that he contacted attorneys to represent him in the matter. ECF No. 8. As such, the Court finds that Plaintiff has failed to satisfy the first Pruitt factor, and his motion will therefore be denied without prejudice. Plaintiff may renew his request, if needed, and cure the deficiencies identified in this Order. 4. CONCLUSION Accordingly, IT IS ORDERED that Plaintiff's motion for leave to proceed without prepaying the filing fee, ECF No. 4, be and the same is hereby GRANTED; IT IS FURTHER ORDERED that Plaintiff's duplicative motion for leave to proceed without prepaying the filing fee, ECF No. 6, be and the same is hereby DENIED as moot; IT IS FURTHER ORDERED that Plaintiff's motion to appoint counsel ECF No. 8, be and the same is hereby DENIED without prejudice; IT IS FURTHER ORDERED that the complaint fails to state a federal claim; IT IS FURTHER ORDERED that Plaintiff may file an amended complaint that complies with the instructions in this Order on or before April 22, 2026.

If Plaintiff files an amended complaint by the deadline, the Court will screen the amended complaint under 28 U.S.C. § 1915A. If Plaintiff does not file an amended complaint by the deadline, the Court will dismiss this case based on a lack of jurisdiction; IT IS FURTHER ORDERED that the Clerk's Office mail Plaintiff a blank prisoner amended complaint form and a copy of the guides entitled "Answers to Prisoner Litigants' Common Questions" and "Answers to Pro Se Litigants' Common Questions," along with this Order; IT IS FURTHER ORDERED that the agency having custody of Plaintiff shall collect from his institution trust account the \$346.53 balance of the filing fee by collecting monthly payments from Plaintiff's prison trust account in an amount equal to 20% of the preceding month's income credited to Plaintiff's trust account and forwarding payments to the Clerk of Court each time the amount in the account exceeds \$10 in accordance with 28 U.S.C. § 1915(b)(2).

The payments shall be clearly identified by the case name and number assigned to this case. If Plaintiff is transferred to another county, state, or federal institution, the transferring institution shall forward a copy of this Order along with his remaining balance to the receiving institution; and IT IS FURTHER ORDERED that a copy of this Order be sent to the officer in charge of the agency where Plaintiff is confined.

Dated at Milwaukee, Wisconsin, this 1st day of April, 2026. A Vo, wee) NY \P. Stagtsaueller U.5. District Judge Plaintiffs who are inmates at Prisoner E-Filing Program institutions shall submit all

correspondence and case filings to institution staff, who will scan and e-mail documents to the Court. Prisoner E-Filing is mandatory for all inmates at Columbia Correctional Institution, Dodge Correctional Institution, Green Bay Correctional Institution, Oshkosh Correctional Institution, Waupun Correctional Institution, and Wisconsin Secure Program Facility.

Plaintiffs who are inmates at all other prison facilities, or who have been released from custody, will be required to submit all correspondence and legal material to: Office of the Clerk United States District Court Eastern District of Wisconsin 362 United States Courthouse 517 E. Wisconsin Avenue Milwaukee, Wisconsin 53202 DO NOT MAIL ANYTHING DIRECTLY TO THE COURT'S CHAMBERS.

If mail is received directly to the Court's chambers, IT WILL BE RETURNED TO SENDER AND WILL NOT BE FILED IN THE CASE. Plaintiff is further advised that failure to timely file any brief, motion, response, or reply may result in the dismissal of this action for failure to prosecute.

In addition, the parties must notify the Clerk of Court of any change of address. IF PLAINTIFF FAILS TO PROVIDE AN UPDATED ADDRESS TO THE COURT AND MAIL IS RETURNED TO THE COURT AS UNDELIVERABLE, THE COURT WILL DISMISS THIS ACTION WITHOUT PREJUDICE. Page 9 of 9