

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Wade v. Burkhart

Wade · No. 2:24-cv-2936 AC P · Decided August 27, 2025

SUMMARY

The United States District Court for the Eastern District of California grants Damaris J. Wade leave to proceed in forma pauperis in a 42 U.S.C. § 1983 action. Following screening under 28 U.S.C. § 1915A, the court finds a viable Eighth Amendment excessive-force claim against defendants Humphers, Lindquist, Tuyen, and McNamara, but finds the other asserted claims and defendants insufficiently pleaded. The court gives plaintiff the choice to proceed on the screened excessive-force claim or file an amended complaint.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Allison Claire
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	August 27, 2025
DOCKET	2:24-cv-2936 AC P
DISPOSITION	other
PROCEDURAL POSTURE	Prisoner civil-rights action under 42 U.S.C. § 1983 screened under 28 U.S.C. § 1915A. The court granted plaintiff leave to proceed in forma pauperis, found an Eighth Amendment excessive-force claim adequately stated against four defendants, found the remaining claims and defendants insufficiently pleaded, and gave plaintiff the choice to proceed on the surviving claim or amend.
STANDARD OF REVIEW	Under 28 U.S.C. § 1915A, the court screens prisoner complaints seeking relief from governmental entities or officers and may dismiss claims that are frivolous or fail to state a claim. The court accepts well-pleaded allegations as true and construes them in the light most favorable to the plaintiff, but requires more than conclusory allegations and applies the facial-plausibility standard.
PRECEDENTIAL VALUE	unpublished district-court order; precedential status unknown

PARTIES

Damaris J. Wade v. M. Burkhart, et al.

TOPICS

prisoners rights

section 1983

civil rights

pleadings

first amendment

PRACTICE AREAS

prisoner civil rights

constitutional law

federal civil procedure

QUESTIONS PRESENTED

1. Whether the complaint adequately stated an Eighth Amendment excessive-force claim against Humphers, Lindquist, Tuyen, and McNamara.
2. Whether the complaint adequately stated First Amendment retaliation, Eighth Amendment deliberate-indifference, or failure-to-protect claims.
3. Whether the complaint sufficiently alleged personal involvement by the remaining named defendants to support § 1983 liability.
4. Whether plaintiff should be permitted to proceed on the surviving claim or amend the complaint to cure pleading deficiencies.
5. Whether plaintiff qualified to proceed in forma pauperis under 28 U.S.C. § 1915.

HOLDINGS

1. Plaintiff's request to proceed in forma pauperis was granted because his declaration showed that he could not afford to pay the entire filing fee.
2. The complaint adequately stated an Eighth Amendment excessive-force claim against defendants Humphers, Lindquist, Tuyen, and McNamara.
3. The complaint failed to state viable First Amendment retaliation, Eighth Amendment deliberate-indifference, or failure-to-protect claims, and failed to state claims against Burkhart, Struve, Odam, D'Angelo, Judd, Maner, Barrios, Chavez, Spaulding, and Reese.

KEY QUOTATIONS

“the court finds that plaintiff has adequately stated a valid Eighth Amendment excessive force claim against defendants Humphers, Lindquist, Tuyen, and McNamara.” (at 4)

“Plaintiff has the option to proceed immediately on his excessive force claim pursuant to the Eighth Amendment against defendants Humphers, Lindquist, Tuyen, and McNamara as set forth in Section III above, or to file an amended complaint.” (at 10)

FACTUAL BACKGROUND

During a prison-yard recall, staff allegedly prevented Wade from passing through a closing gate, ordered him to cuff up, and then roughly grabbed, pushed, slammed, and punched him despite his disclosure of a preexisting

shoulder separation. Wade alleged loss of consciousness, facial and bodily injuries, and subsequent surgery for the shoulder injury. He also alleged retaliation, denial of medical treatment and law-library access, interference with mail, and denial of an opportunity to file a grievance, but did not identify specific defendants responsible for those acts.

PROCEDURAL HISTORY

Plaintiff, a state inmate proceeding without counsel, filed a § 1983 complaint and an application to proceed in forma pauperis. The court granted in forma pauperis status and conducted statutory screening. The court ordered that plaintiff elect within 21 days between proceeding on the screened Eighth Amendment excessive-force claim against Humphers, Lindquist, Tuyen, and McNamara or filing an amended complaint; absent an election, the court would recommend dismissal without prejudice of the deficient claims and defendants.

DISPOSITION

other

CASES CITED

- *Neitzke v. Williams*, 490 U.S. 319, 325, 327 (1989)
- *Jackson v. Arizona*, 885 F.2d 639, 640 (9th Cir. 1989)
- *Lopez v. Smith*, 203 F.3d 1122, 1130 (9th Cir. 2000)
- *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 557, 570 (2007)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)
- *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam)
- *Jenkins v. McKeithen*, 395 U.S. 411, 421 (1969)
- *Rizzo v. Goode*, 423 U.S. 362, 370-71 (1976)
- *Arnold v. Int'l Bus. Machs. Corp.*, 637 F.2d 1350, 1355 (9th Cir. 1981)
- *Johnson v. Duffy*, 588 F.2d 740, 743 (9th Cir. 1978)
- *Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982)
- *Loux v. Rhay*, 375 F.2d 55, 57 (9th Cir. 1967)
- *Lacey v. Maricopa County*, 693 F.3d 896, 928 (9th Cir. 2012)
- *Hudson v. McMillian*, 503 U.S. 1, 6-7 (1992)
- *Whitley v. Albers*, 475 U.S. 312, 321 (1986)
- *Wilkins v. Gaddy*, 559 U.S. 34, 38 (2010)
- *Rhodes v. Robinson*, 408 F.3d 559, 567-68 (9th Cir. 2005)
- *Brodheim v. Cry*, 584 F.3d 1262, 1269-70 (9th Cir. 2009)
- *Crawford-El v. Britton*, 523 U.S. 574, 592 (1998)
- *Shepard v. Quillen*, 840 F.3d 686, 688 (9th Cir. 2016)
- *Jones v. Williams*, 791 F.3d 1023, 1036 (9th Cir. 2015)
- *Entler v. Gregoire*, 872 F.3d 1031, 1039 (9th Cir. 2017)

- Jett v. Penner, 439 F.3d 1091, 1096 (9th Cir. 2006)
- Estelle v. Gamble, 429 U.S. 97, 104, 106 (1976)
- McGuckin v. Smith, 974 F.2d 1050, 1059-60 (9th Cir. 1992)
- Hutchinson v. United States, 838 F.2d 390, 394 (9th Cir. 1988)
- Toguchi v. Chung, 391 F.3d 1051, 1058 (9th Cir. 2004)
- Sanchez v. Vild, 891 F.2d 240, 242 (9th Cir. 1989)
- Jackson v. McIntosh, 90 F.3d 330, 332 (9th Cir. 1996)
- Farmer v. Brennan, 511 U.S. 825, 832, 834-37, 847 (1994)
- Barren v. Harrington, 152 F.3d 1193, 1194 (9th Cir. 1998)
- May v. Enomoto, 633 F.2d 164, 167 (9th Cir. 1980)
- Taylor v. List, 880 F.2d 1040, 1045 (9th Cir. 1989)

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