

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Timothy D. Wilkins v. D. Smith, et al.

No. 2:24-cv-3135 CKD P (E.D. Cal. Feb. 27, 2025) · No. No. 2:24-cv-3135 CKD P · Decided February 27, 2025

SUMMARY

The court grants Timothy D. Wilkins leave to proceed in forma pauperis but dismisses his original, amended, and second amended complaints for failure to state a federal claim. The court grants leave to file a third amended complaint within 30 days and provides guidance concerning specific allegations, defendant involvement, and medical-care claims under the Eighth Amendment.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Carolyn K. Delaney
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	February 27, 2025
DOCKET	No. 2:24-cv-3135 CKD P
DISPOSITION	dismissed
PROCEDURAL POSTURE	A state prisoner proceeding pro se filed an action under 42 U.S.C. § 1983 and submitted original, amended, and second amended complaints. On screening under 28 U.S.C. § 1915A, the court dismissed the second amended complaint for failure to state a claim but granted leave to file a third amended complaint.
STANDARD OF REVIEW	The court screened the prisoner complaint under 28 U.S.C. § 1915A and applied the Federal Rule of Civil Procedure 12(b)(6)-type plausibility standard, requiring factual allegations sufficient to state a facially plausible claim and rejecting naked assertions, labels, conclusions, and threadbare recitals.
PRECEDENTIAL VALUE	unpublished
PARTIES	Timothy D. Wilkins v. D. Smith, et al.

TOPICS

- section 1983
- prisoners rights
- pleadings
- civil procedure

PRACTICE AREAS

prisoner civil rights

constitutional law

federal civil procedure

in forma pauperis proceedings

QUESTIONS PRESENTED

1. Whether the second amended prisoner civil-rights complaint stated a claim upon which relief could be granted under 42 U.S.C. § 1983.
2. Whether plaintiff should be granted leave to file a further amended complaint after dismissal for vague and conclusory allegations.
3. Whether plaintiff was entitled to proceed in forma pauperis and subject to collection of the statutory filing fee under 28 U.S.C. § 1915.

HOLDINGS

1. The second amended complaint failed to state a claim upon which relief could be granted because plaintiff's allegations were vague and did not establish how defendants caused a deprivation of federal rights or how each defendant was personally involved.
2. The medical-care allegations did not state a claim because a delay in medical treatment, without more, is insufficient; a prisoner alleging deliberate indifference based on delay must show significant harm and that defendants should have known the delay would cause that harm.
3. Plaintiff was granted thirty days to file a third amended complaint because the deficiencies identified by the court could potentially be corrected through more specific allegations.
4. Plaintiff's request to proceed in forma pauperis was granted, subject to payment of the statutory filing fee through the collection procedures applicable to prisoners.

KEY QUOTATIONS

"To avoid dismissal for failure to state a claim a complaint must contain more than "naked assertions," "labels and conclusions" or "a formulaic recitation of the elements of a cause of action."" (at 2)

"There can be no liability under 42 U.S.C. § 1983 unless there is some affirmative link or connection between a defendant's actions and the claimed deprivation." (at 3)

"Mere delay of medical treatment, "without more, is insufficient to state a claim of deliberate medical indifference."" (at 3)

"Local Rule 220 requires that any amended complaint be complete in itself without reference to any prior pleading." (at 4)

FACTUAL BACKGROUND

Plaintiff is a state prisoner who alleged various injuries and complained about medical care by defendants. The court found that the allegations did not identify facts showing that defendants caused the alleged injuries through deprivation of federal rights or explain how each defendant was personally involved. The court also found that the second amended complaint failed to state a cognizable federal claim.

PROCEDURAL HISTORY

Plaintiff filed an original complaint, an amended complaint, and a second amended complaint. The court screened the second amended complaint, found that its allegations were too vague and failed to state a federal claim, dismissed the complaints, and granted plaintiff thirty days to file a compliant third amended complaint. The court also granted in forma pauperis status and motions for leave to amend.

DISPOSITION

dismissed

CASES CITED

- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-57, 570 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Ellis v. Cassidy, 625 F.2d 227 (9th Cir. 1980)
- Rizzo v. Goode, 423 U.S. 362 (1976)
- Ivey v. Board of Regents, 673 F.2d 266, 268 (9th Cir. 1982)
- Estelle v. Gamble, 429 U.S. 97, 104-05 (1976)
- Jett v. Penner, 439 F.3d 1091, 1096 (9th Cir. 2006)
- Shapley v. Nevada Board of State Prison Commissioners, 766 F.2d 404, 407 (9th Cir. 1985)
- Hallett v. Morgan, 296 F.3d 732, 745-46 (9th Cir. 2002)

OPINION

(PC) Wilkins v. Smith

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 TIMOTHY D. WILKINS, No. 2:24-cv-3135 CKD P

12 Plaintiff, 13 v. ORDER 14 D. SMITH, et al., 15 Defendants. 16 17 Plaintiff is a state prisoner
proceeding pro se and seeking relief pursuant to 42 U.S.C. § 18 1983. This proceeding was
referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 19 636(b)(1). 20 Plaintiff requests
leave to proceed in forma pauperis. As plaintiff has submitted a 21 declaration that makes the
showing required by 28 U.S.C. § 1915(a), his request will be granted. 22 Plaintiff is required to
pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. §§ 23 1914(a), 1915(b)(1). By
separate order, the court will direct the appropriate agency to collect the 24 initial partial filing fee
from plaintiff’s trust account and forward it to the Clerk of the Court. 25 Thereafter, plaintiff will
be obligated for monthly payments of twenty percent of the preceding 26 month’s income credited

to plaintiff's prison trust account. These payments will be forwarded by 27 the appropriate agency to the Clerk of the Court each time the amount in plaintiff's account 28 exceeds \$10.00, until the filing fee is paid in full. 28 U.S.C. § 1915(b)(2). 1 The court is required to screen complaints brought by prisoners seeking relief against a 2 governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The 3 court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally 4 "frivolous or malicious," that fail to state a claim upon which relief may be granted, or that seek 5 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1),(2). 6 Plaintiff has filed three complaints: an original, amended, and second amended. The court 7 screens the most recently filed second amended complaint. 8 To avoid dismissal for failure to state a claim a complaint must contain more than "naked 9 assertions," "labels and conclusions" or "a formulaic recitation of the elements of a cause of 10 action." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-557 (2007). In other words, 11 "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory 12 statements do not suffice." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Furthermore, a claim 13 upon which the court can grant relief has facial plausibility. *Twombly*, 550 U.S. at 570. "A 14 claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw 15 the reasonable inference that the defendant is liable for the misconduct alleged." *Iqbal*, 556 U.S. 16 at 678. 17 The court has reviewed plaintiff's second amended complaint and finds that it fails to state 18 a claim upon which relief can be granted under federal law. Plaintiff's second amended 19 complaint must be dismissed. The court will, however, grant leave to file a third amended 20 complaint. 21 The primary problem with petitioner's allegations is that they are vague. Plaintiff asserts 22 various injuries, but does not point to facts establishing that the injuries were caused by 23 defendants as a result of the denial of federal rights. If plaintiff chooses to amend the complaint, 24 plaintiff must demonstrate how the conditions complained of have resulted in a deprivation of 25 plaintiff's constitutional rights. See *Ellis v. Cassidy*, 625 F.2d 227 (9th Cir. 1980). Plaintiff must 26 allege in specific terms how each named defendant is involved. There can be no liability under 27 42 U.S.C. § 1983 unless there is some affirmative link or connection between a defendant's 28 actions and the claimed deprivation. *Rizzo v. Goode*, 423 U.S. 362 (1976). Furthermore, vague 1 and conclusory allegations of official participation in civil rights violations are not sufficient. 2 *Ivey v. Board of Regents*, 673 F.2d 266, 268 (9th Cir. 1982). 3 Plaintiff also complains about medical care. Denial or delay of medical care can violate 4 the Eighth Amendment. *Estelle v. Gamble*, 429 U.S. 97, 104-05 (1976). A violation occurs when 5 a prison official causes injury as a result of his or her deliberate indifference to a prisoner's 6 serious medical needs. *Id.* "Deliberate indifference" includes a purposeful act or failure to 7 respond to a prisoner's pain or possible medical need. *Jett v. Penner*, 439 F.3d 1091, 1096 (9th 8 Cir. 2006) citing *Estelle*, 429 U.S. at 104. Mere delay of medical treatment, "without more, is 9 insufficient to state a claim of deliberate medical indifference." *Shapley v. Nev. Bd. of State 10 Prison Comm'rs*, 766 F.2d 404, 407 (9th Cir. 1985). Where a prisoner alleges that delay of 11

medical treatment evinces deliberate indifference, the prisoner must show that the delay caused 12
“significant harm and that defendants should have known this to be the case.” Hallett v. Morgan,
13 296 F.3d 732, 745-46 (9th Cir. 2002). 14 Finally, plaintiff is informed that the court cannot refer
to a prior pleading in order to 15 make plaintiff’s third amended complaint complete. Local Rule
220 requires that any amended 16 complaint be complete in itself without reference to any prior
pleading. 17 In accordance with the above, IT IS HEREBY ORDERED that: 18 1. Plaintiff’s
request for leave to proceed in forma pauperis (ECF No. 2 & 7) is 19 GRANTED. 20 2. Plaintiff is
obligated to pay the statutory filing fee of \$350.00 for this action. All fees 21 shall be collected
and paid in accordance with this court’s order to the Director of the California 22 Department of
Corrections and Rehabilitation filed concurrently herewith. 23 3. Plaintiff’s motions for leave to
amend his pleadings (ECF Nos. 4 & 8) are GRANTED. 24 4. Plaintiff’s complaint (ECF No. 1),
amended complaint (ECF No. 5), and second 25 amended complaint (ECF No. 9) are
DISMISSED. 26 5. Plaintiff is granted thirty days from the date of service of this order to file a
third 27 amended complaint that complies with the requirements of the Civil Rights Act, the
Federal Rules 28 of Civil Procedure, and the Local Rules of Practice. The third amended
complaint must bear the 1 | docket number assigned this case and must be labeled “Third
Amended Complaint.” Failure to 2 || file a third amended complaint in accordance with this order
will result in a recommendation that 3 || this action be dismissed. 4 || Dated: February 27, 2025
Card Kt | / py la 4

5 CAROLYN K DELANEY?

6 UNITED STATES MAGISTRATE JUDGE

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