

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Elghembri v. Cook

Elghembri · No. 24-cv-02770-WHO (PR) · Decided June 18, 2025

OPINION

Elghembri v. Cook

PER CURIAM.

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4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 AHMED MOHAMMAD ELGHEMBRI, Case No. 24-cv-02770-WHO (PR) Plaintiff, 8

ORDER OF DISMISSAL

v. 9 10 AARON COOK, et al., Defendants. 11 12

13 INTRODUCTION

14 Plaintiff Ahmed Mohamed Elghembri alleges that a prison doctor failed to provide 15 him with
adequate medical care, thereby violating his Eighth Amendment rights. His 16 amended 42 U.S.C.
§ 1983 complaint containing these allegations is now before me for 17 review pursuant to 28
U.S.C. § 1915A(a). 18 This federal civil rights action is DISMISSED because Elghembri has not
stated any 19 claim for relief. It is clear from his filings that he mistook a mental health
appointment for 20 a medical appointment. The doctor’s alleged failure to treat his shoulder pain
was 21 therefore based on a misunderstanding and was not the result of deliberate indifference.

22 DISCUSSION

23 A. Standard of Review 24 A federal court must conduct a preliminary screening in any case in
which a 25 prisoner seeks redress from a governmental entity or officer or employee of a 26
governmental entity. See 28 U.S.C. § 1915A(a). In its review, the court must identify any 27
cognizable claims and dismiss any claims that are frivolous, malicious, fail to state a claim 1 from
such relief. See *id.* § 1915A(b)(1), (2). Pro se pleadings must be liberally construed. 2 See
Balistreri v. Pacifica Police Dep’t, 901 F.2d 696, 699 (9th Cir. 1988). 3 A “complaint must contain
sufficient factual matter, accepted as true, to ‘state a 4 claim to relief that is plausible on its face.’”
Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) 5 (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S.
544, 570 (2007)). “A claim has facial 6 plausibility when the plaintiff pleads factual content that
allows the court to draw the 7 reasonable inference that the defendant is liable for the misconduct
alleged.” *Id.* (quoting 8 *Twombly*, 550 U.S. at 556). Furthermore, a court “is not required to accept
legal 9 conclusions cast in the form of factual allegations if those conclusions cannot reasonably
10 be drawn from the facts alleged.” *Clegg v. Cult Awareness Network*, 18 F.3d 752, 754–55 11

(9th Cir. 1994). 12 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential
13 elements: (1) that a right secured by the Constitution or laws of the United States was 14
violated, and (2) that the alleged violation was committed by a person acting under the 15 color of
state law. See *West v. Atkins*, 487 U.S. 42, 48 (1988). 16 B. Legal Claims 17 1. Original
Complaint 18 In his original complaint, Elghembri alleged that he went to a medical appointment
19 on September 28, 2023, regarding a fractured shoulder and a “skin cancer diagnosis.” 20
(Compl., Dkt. No. 1 at 5.) The unnamed doctor presented him with a questionnaire, for 21 which
he was not ready, but he does not describe how the physical examination went, what 22 treatment
he asked for, and what treatment was allegedly denied him. (Id. at 5-8.) From 23 the documents
attached to the complaint, it appears that this September 28 appointment 24 was for “a cognitive
or brain health assessment due to your recent falls.” (Id. at 16.) 25 The complaint was dismissed
with leave to amend. Elghembri was directed to 26 provide the doctor’s first and last name and
give greater detail about what the appointment 27 was for, what treatment he sought, and what
was allegedly denied him. 1 2. First Amended Complaint 2 Elghembri alleges that during a
medical appointment, his doctor asked him 3 || questions regarding his mental health even though
plaintiff went to the appointment for 4 || treatment for shoulder pain. (Am. Compl., Dkt. No. 11 at
3.) From the complaint and the 5 || attached exhibits, it is clear that Elghembri’s appointment was
an “episodic visit for a 6 || cognitive brain health assessment” owing to his “recent falls,” not for
shoulder treatment. 7 (Id., Health Care Services Response, Dkt. No. 11 at 5-6.) Because these
facts show a 8 || mistake and a misunderstanding, Elghembri has not stated a claim for deliberate 9
|| indifference under the Eighth Amendment. 10 A prison official is deliberately indifferent if he
knows that a prisoner faces a 11 || substantial risk of serious harm and disregards that risk by
failing to take reasonable steps 12 || to abate it. *Farmer v. Brennan*, 511 U.S. 825, 837 (1994)
(equating standard with that of 5 13 || criminal recklessness). “[I]t is obduracy and wantonness,
not inadvertence or error in good S 14 || faith, that characterize the conduct prohibited by the
Eighth Amendment.” *Whitley v. 3 15 || Albers*, 475 U.S. 312, 319 (1986). A mere accident or
evaluative mistake is not to be a 16 || characterized as wanton infliction of unnecessary pain.
Estelle v. Gamble, 429 U.S. 97, 17 || 104 (1976). Here, a doctor asking mental health questions
during a mental health 18 || appointment rather than treating Elghembri’s shoulder pain does not
amount to criminal 19 || recklessness or obduracy or wantonness. This civil rights action will be
dismissed for 20 || failure to state a claim for relief.

21 CONCLUSION

22 This federal civil rights action is DISMISSED for failure to state a claim for relief. 23 || The
Clerk shall enter judgment in favor of defendants, and close the file. 24 IT IS SO ORDERED. . 25
Dated: June 18, 2025 \ 002

*6 WILLIAM H. ORRICK

27 United States District Judge 28

