

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Collins v. Smith

No. 2:24-cv-01229 SCR P (E.D. Cal. June 10, 2025) · No. 2:24-cv-01229 SCR P · Decided June 11, 2025

OPINION

(PC) Collins v. Smith

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 BOBBY LEE COLLINS, No. 2:24-cv-01229 SCR P

12 Plaintiff, 13 v. ORDER 14 D. SMITH, et al., 15 Defendants. 16 17 Plaintiff is incarcerated in
state prison and proceeding pro se with a civil rights action 18 under 42 U.S.C. § 1983. Pending
before the undersigned is plaintiff's complaint for screening 19 (ECF No. 1) and motion to
proceed in forma pauperis (ECF No. 2).

20 IN FORMA PAUPERIS

21 Plaintiff has requested leave to proceed without paying the full filing fee for this action, 22
under 28 U.S.C. § 1915. He has submitted a declaration showing that he cannot afford to pay the
23 entire filing fee. See 28 U.S.C. § 1915(a)(2). Accordingly, plaintiff's motion to proceed in
forma 24 pauperis is granted. This means that plaintiff is allowed to pay the \$350.00 filing fee in
monthly 25 installments that are taken from the inmate's trust account rather than in one lump
sum. 26 U.S.C. §§ 1914(a). As part of this order, the prison is required to remove an initial
partial filing 27 fee from plaintiff's trust account. See 28 U.S.C. § 1915(b)(1). A separate order
directed to 28 CDCR requires monthly payments of twenty percent of the prior month's income to
be taken 1 from plaintiff's trust account. These payments will be taken until the \$350 filing fee is
paid in 2 full. See 28 U.S.C. § 1915(b)(2).

3 STATUTORY SCREENING

4 The court is required to screen complaints brought by prisoners seeking relief against "a 5
governmental entity or officer or employee of a governmental entity." 28 U.S.C. § 1915A(a). In 6
performing this screening function, the court must dismiss any claim that "(1) is frivolous, 7
malicious, or fails to state a claim upon which relief may be granted; or (2) seeks monetary relief
8 from a defendant who is immune from such relief." Id. § 1915A(b). A claim is legally frivolous
9 when it lacks an arguable basis either in law or in fact. *Neitzke v. Williams*, 490 U.S. 319, 325
10 (1989). The court may dismiss a claim as frivolous if it is based on an indisputably meritless 11

legal theory or factual contentions that are baseless. *Neitzke*, 490 U.S. at 327. The critical inquiry is whether a constitutional claim, however inartfully pleaded, has an arguable legal and factual basis. See *Jackson v. Arizona*, 885 F.2d 639, 640 (9th Cir. 1989). In order 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.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-557 (2007). In other words, “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements do not suffice.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A claim upon which the court can grant relief has facial plausibility. *Twombly*, 550 U.S. at 570. “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 678. When considering whether a complaint states a claim, the court must accept the allegations as true, *Erickson v. Pardus*, 551 U.S. 89, 93-94 (2007), and construe the complaint in the light most favorable to the plaintiff, *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974).

25 PLAINTIFF’S COMPLAINT

26 I. Factual Allegations 27 Plaintiff’s complaint is largely indecipherable. Liberally construed, it appears to allege 28 violations of the Americans with Disabilities Act and the Armstrong and Coleman settlements by 1 mental health staff at Folsom State Prison and California State Prison, Sacramento, who failed to 2 disclose his diagnostic test results. Attached to the complaint are various medical records from 3 other state prisons and medical facilities, including Kern Valley State Prison, Adventist Health in 4 Bakersfield, North Kern State Prison, California State Prison, Corcoran, and Palmdale Regional 5 Medical Center. The undersigned is unable to glean from these materials the nature of plaintiff’s 6 claims or the relief that he seeks. 7 II. Failure to State a Claim 8 Having conducted the screening required by 28 U.S.C. § 1915A, the undersigned finds 9 that the complaint does not state a valid claim for relief pursuant to the Americans with 10 Disabilities Act. The complaint itself is difficult to follow, and it is not clear how the attached 11 medical records relate to its allegations. Because of these defects, the court will not order the 12 complaint to be served on defendants. 13 Plaintiff may try to fix these problems by filing an amended complaint. In deciding 14 whether to file an amended complaint, plaintiff is provided with the relevant legal standards 15 governing amended complaints and his potential claims for relief which are attached to this order. 16 See Attachment A. Plaintiff is advised that he may submit filings in any written form, including 17 typed, printed, handwritten, or a combination thereof, so long as his papers are legible. 18 III. Plain Language Summary of this Order for Party Proceeding Without a Lawyer 19 Your complaint will not be served because the facts alleged are not enough to state a 20 claim. You are being given a chance to fix these problems by filing an amended complaint. If 21 you file an amended complaint, pay particular attention to the legal standards attached to this 22 order. Be sure to provide facts that show exactly what each defendant did to violate your rights. 23 Any claims and information not in the amended complaint will not be

considered.

24 CONCLUSION

25 In accordance with the above, IT IS HEREBY ORDERED that: 26 1. Plaintiff's request for
leave to proceed in forma pauperis (ECF No. 2) is GRANTED. 27 2. Plaintiff is obligated to pay
the statutory filing fee of \$350.00 for this action. Plaintiff 28 is assessed an initial partial filing fee
in accordance with the provisions of 28 U.S.C. 1 § 1915(b)(1). All fees shall be collected and paid
in accordance with this court's order to the 2 || appropriate agency filed concurrently herewith. 3 3.
Plaintiffs complaint fails to state a claim upon which relief may be granted, see 28 4 | U.S.C. §
1915A, and will not be served. 5 4. Within thirty (30) days from the date of service of this order,
plaintiff may file an 6 || amended complaint that complies with the requirements of the Federal
Rules of Civil Procedure 7 || and the Local Rules of Practice. The amended complaint must bear
the docket number assigned 8 | this case, 2:24-cv-01229 SCR P, and must be labeled "First
Amended Complaint." 9 5. Failure to file an amended complaint in accordance with this order will
result in a 10 || recommendation that this action be dismissed pursuant to Rule 41(b) of the Federal
Rules of Civil 11 | Procedure. 12 6. The Clerk of the Court is directed to send plaintiff a copy of
the prisoner complaint 13 | form used in this district. 14 | DATED: June 10, 2025 □ mk 15

16 SEAN C. RIORDAN

UNITED STATES MAGISTRATE JUDGE

17 18 19 20 21 22 23 24 25 26 27 28

1 ATTACHMENT A

2 This Attachment provides, for informational purposes only, the legal standards that may 3 apply
to your claims for relief. Pay particular attention to these standards if you choose to file an 4
amended complaint. 5 I. Legal Standards Governing Amended Complaints 6 If plaintiff chooses to
file an amended complaint, he must demonstrate how the conditions 7 about which he complains
resulted in a deprivation of his constitutional rights. *Rizzo v. Goode*, 8 423 U.S. 362, 370-71
(1976). The complaint must also allege in specific terms how each named 9 defendant is involved.
Arnold v. Int'l Bus. Machs. Corp., 637 F.2d 1350, 1355 (9th Cir. 1981). 10 There can be no
liability under 42 U.S.C. § 1983 unless there is some affirmative link or 11 connection between a
defendant's actions and the claimed deprivation. *Id.*; *Johnson v. Duffy*, 12 588 F.2d 740, 743 (9th
Cir. 1978). Furthermore, "[v]ague and conclusory allegations of official 13 participation in civil
rights violations are not sufficient." *Ivey v. Bd. of Regents*, 673 F.2d 266, 14 268 (9th Cir. 1982)
(citations omitted). 15 Plaintiff is also informed that the court cannot refer to a prior pleading in
order to make 16 his amended complaint complete. Local Rule 220 requires that an amended
complaint be 17 complete in itself without reference to any prior pleading. This is because, as a
general rule, an 18 amended complaint supersedes any prior complaints. *Loux v. Rhay*, 375 F.2d
55, 57 (9th Cir. 19 1967) (citations omitted). Once plaintiff files an amended complaint, any
previous complaint no 20 longer serves any function in the case. Therefore, in an amended
complaint, as in an original 21 complaint, each claim and the involvement of each defendant must

be sufficiently alleged. 22 II. Americans with Disabilities Act 23 Title II of the ADA applies to inmates within state prisons. *Pennsylvania Dept. of 24 Corrections v. Yeskey*, 118 S.Ct. 1952, 1955 (1998); see also *Armstrong v. Wilson*, 124 F.3d 25 1019, 1023 (9th Cir.1997). To state a claim for violation of Title II of the ADA, a plaintiff must 26 allege four elements: 27 (1) [H]e is an individual with a disability; (2) he is otherwise qualified to participate in or receive the benefit of some public entity's services, programs, or 28 activities; (3) he was either excluded from participation in or denied the benefits 1 of the public entity's services, programs, or activities, or was otherwise discriminated against by the public entity; and (4) such exclusion, denial of 2 benefits, or discrimination was by reason of [his] disability. 3 *O'Guinn v. Lovelock Corr. Ctr.*, 502 F.3d 1056, 1060 (9th Cir. 2007); see also *Thompson v. 4 Davis*, 295 F.3d 890, 895 (9th Cir. 2002). 5 "A disability discrimination claim may be based on 'one of three theories of liability: 6 disparate treatment, disparate impact, or failure to make a reasonable accommodation.'" *Payan v. 7 Los Angeles Community College Dist.*, 11 F.4th 729, 738 (9th Cir. 2021). In contrast to a Title II 8 disparate impact claim, which "is focused on modifying a policy or practice to improve systemic 9 accessibility," a Title II "reasonable accommodation claim is focused on an accommodation 10 based on an individualized request or need[.]" *Id.* In addition, "[t]o recover monetary damages 11 under Title II of the ADA ... a plaintiff must prove intentional discrimination on the part of the 12 defendant." *Duvall*, 260 F.3d 1124, 1138 (9th Cir. 2001). 13 The treatment, or lack of treatment, concerning Plaintiff's medical condition does not 14 provide a basis upon which to impose liability under the ADA. *Simmons v. Navajo County*, 609 15 F.3d 1011, 1022 (9th Cir. 2010) ("The ADA prohibits discrimination because of disability, not 16 inadequate treatment for disability."); *Bryant v. Madigan*, 84 F.3d 246, 249 (7th Cir.1996) ("The 17 ADA does not create a remedy for medical malpractice."). 18 III. Eighth Amendment Medical Indifference 19 Denial or delay of medical care for a prisoner's serious medical needs may constitute a 20 violation of the prisoner's Eighth and Fourteenth Amendment rights. *Estelle v. Gamble*, 429 U.S. 21 97, 104-05 (1976). An individual is liable for such a violation only when the individual is 22 deliberately indifferent to a prisoner's serious medical needs. (*Id.*); see *Jett v. Penner*, 439 F.3d 23 1091, 1096 (9th Cir. 2006); *Hallett v. Morgan*, 296 F.3d 732, 744 (9th Cir. 2002); *Lopez v. 24 Smith*, 203 F.3d 1122, 1131-32 (9th Cir. 2000). 25 In the Ninth Circuit, the test for deliberate indifference consists of two parts. *Jett*, 439 26 F.3d at 1096, citing *McGuckin v. Smith*, 974 F.2d 1050 (9th Cir. 1991), overruled on other 27 grounds by *WMX Techs., Inc. v. Miller*, 104 F.3d 1133 (9th Cir. 1997) (en banc). First, the 28 plaintiff must show a "serious medical need" by demonstrating that "failure to treat a prisoner's 1 condition could result in further significant injury or the 'unnecessary and wanton infliction of 2 pain.'" (*Id.*, citing *Estelle*, 429 U.S. at 104.) "Examples of serious medical needs include '[t]he 3 existence of an injury that a reasonable doctor or patient would find important and worthy of 4 comment or treatment; the presence of a medical condition that significantly affects an 5 individual's daily activities; or the existence of chronic and substantial pain.'" *Lopez*, 203 F. 3d 6 at 1131-1132, citing *McGuckin*, 974 F.2d at 1059-60. 7 Second, the

plaintiff must show the defendant's response to the need was deliberately 8 indifferent. Jett, 439 F.3d at 1096. This second prong is satisfied by showing (a) a purposeful act 9 or failure to respond to a prisoner's pain or possible medical need and (b) harm caused by the 10 indifference. (Id.) Under this standard, the prison official must not only "be aware of facts from 11 which the inference could be drawn that a substantial risk of serious harm exists," but that person 12 "must also draw the inference." Farmer v. Brennan, 511 U.S. 825, 837 (1994). This "subjective 13 approach" focuses only "on what a defendant's mental attitude actually was." (Id. at 839.) A 14 showing of merely negligent medical care is not enough to establish a constitutional violation. 15 Frost v. Agnos, 152 F.3d 1124, 1130 (9th Cir. 1998), citing Estelle, 429 U.S. at 105-106. 16 17 18 19 20 21 22 23 24 25 26 27 28