

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
TENNESSEE

Benjamin Oliver Sly v. Sullivan County Sheriff's Office and CO
Perry

No. 2:26-CV-115-TRM-CRW (E.D. Tenn. May 20, 2026) · No. 2:26-CV-115-TRM-CRW · Decided May 20,
2026

SUMMARY

The United States District Court for the Eastern District of Tennessee grants Benjamin Oliver Sly leave to proceed in forma pauperis and assesses the statutory filing fee under the Prison Litigation Reform Act. The court dismisses the claims against the Sullivan County Sheriff’s Office and finds the allegations against Corrections Officer Perry insufficiently pleaded, while allowing Sly fourteen days to file an amended complaint. The order also addresses screening requirements under 28 U.S.C. §§ 1915 and 1915A and warns that failure to amend will result in dismissal.

CASE DETAILS

COURT	United States District Court for the Eastern District of Tennessee
WRITING FOR THE COURT	Travis R. McDonough
JURISDICTION	United States District Court for the Eastern District of Tennessee
DECIDED	May 20, 2026
DOCKET	2:26-CV-115-TRM-CRW
DISPOSITION	dismissed
PROCEDURAL POSTURE	A pro se prisoner filed a 42 U.S.C. § 1983 complaint and moved to proceed in forma pauperis. The district court granted in forma pauperis status, screened the complaint under the Prison Litigation Reform Act, dismissed the claims, and allowed Plaintiff fourteen days to file an amended complaint.
STANDARD OF REVIEW	At PLRA screening, the court must dismiss claims that are frivolous, malicious, fail to state a claim, or seek monetary relief from an immune defendant. The Rule 12(b)(6) plausibility standard applies, requiring sufficient factual matter to state a claim that is plausible on its face.

PRECEDENTIAL VALUE	unpublished district-court memorandum; precedential status not specified
PARTIES	Benjamin Oliver Sly v. Sullivan County Sheriff's Office, CO Perry

TOPICS

[prisoners rights](#)
[section 1983](#)
[civil procedure](#)
[pleadings](#)
[damages](#)

PRACTICE AREAS

[prisoner civil rights](#)
[constitutional torts](#)
[federal civil procedure](#)
[municipal liability](#)

[in forma pauperis and PLRA screening](#)

QUESTIONS PRESENTED

1. Whether the Sullivan County Sheriff's Office is a legal entity subject to suit under 42 U.S.C. § 1983.
2. Whether Plaintiff plausibly alleged that CO Perry used objectively unreasonable force in violation of the Constitution.
3. Whether Plaintiff's allegations concerning unidentified uses of force, medical care, harassment, commissary privileges, and housing placement stated actionable constitutional claims.
4. Whether Plaintiff should be allowed to amend his complaint after dismissal at PLRA screening.
5. Whether Plaintiff qualified to proceed in forma pauperis and was subject to payment of the statutory filing fee through deductions from his inmate trust account.

HOLDINGS

1. The Sullivan County Sheriff's Office is not a legal entity or person subject to suit under 42 U.S.C. § 1983, so the claims against it were properly dismissed.
2. Plaintiff failed to state a plausible constitutional excessive-force claim against CO Perry because he did not provide sufficient facts concerning the preceding altercation, the perceived security threat, the amount of force used, or any resulting injury.
3. The remaining allegations failed to state claims because Plaintiff did not identify responsible defendants or provide sufficient facts, and the alleged harassment, commissary restrictions, and housing transfer did not independently establish constitutional violations.
4. The court permitted Plaintiff to file an amended complaint within fourteen days, limited to claims related to the original complaint and required to be complete, numbered, and supported by specific factual allegations.
5. Plaintiff qualified to proceed in forma pauperis, but remained responsible for the \$350 civil filing fee, payable through deductions from his inmate trust account as required by the PLRA.

KEY QUOTATIONS

“Thus, to survive an initial review under the PLRA, a complaint “must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’”” (Section II.A)

“Therefore, these allegations fail to raise constitutional issues, regardless of whether Plaintiff can identify the individual(s) responsible for these events.” (Section II.C)

FACTUAL BACKGROUND

Plaintiff, a prisoner at the Sullivan County Detention Center, alleged several uses of force, including that CO Perry threw him into a cell wall after an altercation. He also alleged other unidentified officers beat or restrained him, failed to account for seizure-related medical issues, ridiculed or harassed him, denied or inconsistently allowed commissary privileges, and moved him between housing areas. Plaintiff sought monetary damages under § 1983 from the Sullivan County Sheriff's Office and CO Perry.

PROCEDURAL HISTORY

Plaintiff filed a prisoner civil-rights complaint against the Sullivan County Sheriff's Office and Corrections Officer Perry, together with a motion to proceed in forma pauperis. The district court granted the fee-waiver motion, assessed the statutory filing fee through inmate-account deductions, and conducted initial screening under 28 U.S.C. §§ 1915A and 1915(e)(2)(B). The court dismissed all asserted claims but permitted Plaintiff to amend within fourteen days and warned that failure to do so would result in dismissal for failure to prosecute, failure to comply with the order, and failure to state a claim.

DISPOSITION

dismissed

CASES CITED

- Benson v. O'Brian, 179 F.3d 1014 (6th Cir. 1999)
- Ashcroft v. Iqbal, 556 U.S. 662 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007)
- Hill v. Lappin, 630 F.3d 468, 470-71 (6th Cir. 2010)
- Anciani v. Davidson Cnty. Sheriff Office, No. 3:19-CV-169, 2019 WL 1002503, at *2 (M.D. Tenn. Feb. 28, 2019)
- Matthews v. Jones, 35 F.3d 1046, 1049 (6th Cir. 1994)
- Monell v. Department of Social Services, 436 U.S. 658, 708 (1978) (Powell, J., concurring)
- Graham v. Connor, 490 U.S. 386, 396 (1989)
- Kingsley v. Hendrickson, 576 U.S. 389, 396-97 (2015)
- Howell v. NaphCare, Inc., 67 F.4th 302, 320 (6th Cir. 2023)
- Frazier v. Michigan, 41 F. App'x 762, 764 (6th Cir. 2002)
- Ivey v. Wilson, 832 F.2d 950, 954 (6th Cir. 1987)
- White v. Hamilton Cnty. Jail, No. 1:08-CV-53, 2011 WL 864855, at *8 (E.D. Tenn. Mar. 10, 2011)

- Adams v. Hardin Cnty. Det. Ctr., No. 3:16-CV-P29-CRS, 2016 WL 2858911, at *3 (W.D. Ky. May 16, 2016)
- Center for Bio-Ethical Reform, Inc. v. Napolitano, 648 F.3d 365, 379 (6th Cir. 2011)
- Olim v. Wakinekona, 461 U.S. 238, 245-46 (1983)
- Montanye v. Haymes, 427 U.S. 236, 242 (1976)
- Curtis v. Citibank, N.A., 226 F.3d 133, 138-39 (2d Cir. 2000)

OPINION

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TENNESSEE AT GREENEVILLE BENJAMIN OLIVER SLY,)) Plaintiff,)) v.) No.: 2:26-CV-115-TRM-CRW) SULLIVAN COUNTY SHERIFF'S) OFFICE and CO PERRY,)) Defendants.) MEMORANDUM AND ORDER Plaintiff, a pro se prisoner incarcerated at the Sullivan County Detention Center, has filed a complaint under 42 U.S.C. § 1983 (Doc.

1) and a motion for leave to proceed in forma pauperis (Doc. 4). For the reasons set forth below, the Court will GRANT Plaintiff's motion to proceed in forma pauperis, DISMISS Plaintiff's claims, and ORDER Plaintiff to file an amended complaint if he wishes to pursue this litigation.

I. MOTION TO PROCEED IN FORMA PAUPERIS Under the Prison Litigation Reform Act ("PLRA"), a prisoner bringing a civil action may apply for permission to file suit without prepaying the filing fee. See 28 U.S.C. § 1915(a). A review of Plaintiff's motion (Doc. 4) demonstrates that he lacks sufficient financial resources to pay the filing fee in a lump sum.

Accordingly, pursuant to 28 U.S.C. § 1915, the Court will GRANT this motion (Id.). The Court will ASSESS Plaintiff the civil filing fee of \$350.00 and DIRECT the custodian of Plaintiff's inmate trust account to submit to the Clerk, U.S. District Court, 220 West Depot Street, Suite 200, Greeneville, Tennessee, 37743 twenty percent (20%) of Plaintiff's preceding monthly income (or income credited to Plaintiff's trust account for the preceding month), but only when such monthly income exceeds ten dollars (\$10.00), until the full filing fee of three hundred fifty dollars (\$350.00) as authorized under 28 U.S.C. § 1914(a) has been paid to the Clerk.

28 U.S.C. § 1915(b)(2). The Court will DIRECT the Clerk to send a copy of this Order to the Court's financial deputy and the custodian of inmate trust accounts at Plaintiff's current facility to ensure compliance with the PLRA's requirements for payment of the filing fee. II. SCREENING OF COMPLAINT A. Standard Under the PLRA, district courts must screen prisoner complaints and sua sponte dismiss any claims that are "frivolous, malicious, or fail[] to state a claim upon which relief may be granted," or "seek[] monetary relief from a defendant who is immune from such relief." 28 U.S.C. § 1915A(b); see also 28 U.S.C. § 1915(e)(2)(B); Benson v. O'Brian, 179 F.3d 1014 (6th Cir.

1999). The dismissal standard articulated by the Supreme Court in Ashcroft v. Iqbal, 556 U.S. 662 (2009) and Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007) "governs dismissals for failure to

state a claim under [28 U.S.C. §§ 1915(e)(2)(B) and 1915A] because the relevant statutory language tracks the language in Rule 12(b)(6)” of the Federal Rules of Civil Procedure.

Hill v. Lappin, 630 F.3d 468, 470–71 (6th Cir. 2010) (citations omitted). Thus, to survive an initial review under the PLRA, a complaint “must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” Iqbal, 556 U.S. at 678 (quoting Twombly, 550 U.S. at 570). B. Plaintiff’s Allegations On November 10, 2025, Plaintiff was ordered to pack his items “[a]fter a brief altercation” at the Sullivan County Jail (Doc.

1, at 3). While complying with those instructions, he “was thrown into a cell wall” in Dayroom B, Unit 3, cell 14 by Defendant Corrections Officer (“CO”) Perry (Id.). Plaintiff has “been harassed frequently by this shift” (Id.). Another time, Plaintiff “was inexcusably beaten for no reason after having a severe seizure” that the officer interpreted as resisting (Id. at 4).

Plaintiff “was moved to a different area for no reason” except the officer’s “impartiality to [Plaintiff] having genuine seizures” (Id.). Plaintiff was moved to “O.V”¹ (Id.). Three officers then slammed Plaintiff to the floor and delivered closed-fist strikes while Plaintiff “clearly stated [that he] was being compliant” (Id.).

On March 27, 2026, in Dayroom B, Unit 3, cell 16, Plaintiff was “slammed” face first onto the floor “while attempting to defend [him]self” (Id.). The CO on duty then slammed Plaintiff’s head into the door frame as Plaintiff was attempting to leave the cell (Id.). Plaintiff sustained facial and cranial wounds, along with bruising on his wrists from being handcuffed (Id.).

Plaintiff’s public defender sent a photographer to document Plaintiff’s injuries two days later (Id.). Plaintiff has told the medical staff several times that hypoglycemia causes him to have seizures, but the staff never takes this information “into account” (Id. at 5). Plaintiff also has an injured rotator cuff due to the use of excessive force, but officers ignore Plaintiff when he reminds them that he “remain[s] complacent” (Id.).

Most inmates in Plaintiff’s segregated housing unit are not allowed commissary, but some specific inmates are allowed to receive commissary food items (Id.). ¹ Plaintiff does not explain this abbreviation, and the Court is uncertain of its meaning or importance.

On April 19, 2026, Plaintiff was harassed by COs—namely, CO Tignor—regarding his late mother (Id.). On April 18, 2026, Plaintiff was ridiculed and “sexualized” while being strip searched “in the O.V. unit (mop closet)” (Id.). Aggrieved by these events, Plaintiff filed the instant action against the Sullivan County Sheriff’s Office (“SCSO”) and CO Perry seeking monetary damages (Id. at 6).

C. Analysis Plaintiff cannot maintain a claim against the Sullivan County Sheriff’s Office, because it is not a legal entity subject to suit under § 1983. See Anciani v. Davidson Cnty. Sheriff Office, No. 3:19-CV-169, 2019 WL 1002503, at *2 (M.D. Tenn. Feb. 28, 2019) (“It is well established

that in Tennessee federal courts, a sheriff's office or police department is not a 'person' subject to suit under 42 U.S.C. §1983." (citing *Matthews v. Jones*, 35 F.3d 1046, 1049 (6th Cir.

1994))). And while Sullivan County is a "person" for purposes of § 1983, it can only be held liable if it implemented or maintained an official policy or custom that caused a violation of Plaintiff's rights. *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 708 (1978) (Powell, J., concurring) (explaining a municipality can only be held liable for harms that result from a constitutional violation when that underlying violation resulted from "implementation of its official policies or established customs").

Plaintiff has not alleged any facts that would permit the plausible inference that his constitutional rights were violated because of Sullivan County's policies or customs. Accordingly, this Defendant will be DISMISSED.

The remaining Defendant named in this action is CO Perry. To state a claim against Defendant Perry, Plaintiff must adequately plead that Defendant Perry's own actions violated Plaintiff's constitutional rights. *Iqbal*, 556 U.S. at 676; see also *Frazier v. Michigan*, 41 F. App'x 762, 764 (6th Cir. 2002) (providing that "a complaint must allege that the defendants were personally involved in the alleged deprivation of federal rights" to state a claim upon which relief may be granted).

Plaintiff only mentions Defendant Perry once in his complaint. Specifically, he alleges that CO Perry threw him into a cell wall while Plaintiff was packing and "being compliant" (Doc. 1, at 3). But "[n]ot every push or shove, even if it may later seem unnecessary in the peace of a judge's chambers," gives rise to a constitutional violation. *Graham v. Connor*, 490 U.S. 386, 396 (1989).

Rather, to maintain a claim that CO Perry's use of force violated Plaintiff's constitutional rights, Plaintiff must show, at a minimum, "that the force purposely or knowingly used against him was objectively unreasonable." *Kingsley v. Hendrickson*, 576 U.S. 389, 396–97 (2015). Factors that "bear on the reasonableness or unreasonableness of the force used," *Kingsley*, 576 U.S. at 397, include the following: [T]he relationship between the need for the use of force and the amount of force used; the extent of the plaintiff's injury; any effort made by the officer to temper or to limit the amount of force; the severity of the security problem at issue; the threat reasonably perceived by the officer; and whether the plaintiff was actively resisting.

Howell v. NaphCare, Inc., 67 F.4th 302, 320 (6th Cir. 2023) (citing *Kingsley*, 576 U.S. at 397). Here, Plaintiff does not provide sufficient details for the Court to plausibly infer that CO Perry's actions rise to the level of a constitutional violation.

For example, Plaintiff notes that an "altercation" of some sort occurred before this incident, but he does not offer any additional facts to allow the Court to determine whether Plaintiff's actions

posed a security or threat issue. Additionally, Plaintiff does not state what, if any, injury he suffered as a result of this incident.

Therefore, while it is possible that CO Perry's actions rose to the level of a constitutional violation, Plaintiff has not alleged sufficient underlying facts to render it plausible. See, e.g., *Iqbal*, 556 U.S. at 678.

As such, Plaintiff's use-of-force claim against CO Perry will be DISMISSED. Plaintiff does not identify a specific wrongdoer with regard to his remaining allegations. But these, too, fail to state a claim. In his remaining allegations, Plaintiff fails to identify the officers who have used force against him or described the surrounding circumstances; it is unclear whether he seeks to raise a claim for the denial of medical care in this action² and, if so, against whom; and he complains of circumstances that do not rise to the level of a constitutional violation, even if the allegedly offending individual(s) were properly identified.

As to this last point, the Court notes that Plaintiff complains that he has been harassed and ridiculed. But such conduct does not rise to the level of a constitutional violation. See, e.g. *Ivey v. Wilson*, 832 F.2d 950, 954 (6th Cir. 1987) (finding verbal harassment or threats by prison official does not constitute punishment in constitutional sense); *White v. Hamilton Cnty.*

Jail, No. 1:08-CV-53, 2011 WL 864855, at *8 (E.D. Tenn. Mar. 10, 2011) (finding the plaintiff's "claim that some of the defendants engaged in verbally abusive behavior, laughed at him, and ridiculed him, fails to state a constitutional violation"). Plaintiff also complains that some inmates in his unit get commissary while others do not. But Plaintiff has no right to commissary privileges.

Adams v. Hardin Cnty. Det. Ctr., No. 3:16-CV-P29-CRS, 2016 WL 2858911, at *3 (W.D. Ky. May 16, 2016) (noting inmates have "no federal constitutional right to purchase items (food or non-food) from a commissary at all"). And he has not otherwise pled facts indicated that the inmates who do get commissary privileges are sufficiently "similarly situated" to him to implicate his equal protection rights.

See, e.g., *Ctr. For Bio-Ethical Reform, Inc. v. Napolitano*, 648 F.3d 365, 379 2 The Court notes that Plaintiff has initiated a separate lawsuit alleging the denial of adequate medical care. See *Sly v. Sullivan Cnty. Sheriffs Dep't*, No. 2:26-MC-21-DCLC-CRW.

The Court NOTIFIES Plaintiff that he cannot maintain claims related to his medical care at Sullivan County Detention Facility in two lawsuits. See, e.g., *Curtis v. Citibank, N.A.*, 226 F.3d 133, 138–39 (2d Cir. 2000) (noting "plaintiffs have no right to maintain two actions on the same subject in the same court, against the same defendant at the same time").

(6th Cir. 2011). Finally, Plaintiff complains that he was arbitrarily moved to a different area. However, he has no protected interest in being housed in any particular unit or facility. See *Olim v.*

Wakinekona, 461 U.S. 238, 245–46 (1983); Montanye v. Haymes, 427 U.S. 236, 242 (1976).

Therefore, these allegations fail to raise constitutional issues, regardless of whether Plaintiff can identify the individual(s) responsible for these events. Even so, it is possible that Plaintiff may be able to present additional facts that state a plausible constitutional claim if he is permitted an opportunity to amend his complaint.

Accordingly, if Plaintiff wishes to proceed in this action, he is ORDERED to file an amended complaint within fourteen days of entry of this Order that contains a plain, short statement of his claims supported by specific factual detail, including the parties responsible, the injuries suffered, the constitutional right infringed, and his requested relief.

To help the Court determine which factual allegations are claims (as opposed to background or supporting facts), Plaintiff must present his claims in numbered paragraphs. Plaintiff must avoid conclusory legal statements or arguments in this amended complaint.

The Court will DIRECT the Clerk to mail Plaintiff a § 1983 form for this purpose. The Court NOTIFIES Plaintiff that it will only address the merits of Plaintiff's claims that relate to his original complaint. Accordingly, Plaintiff SHALL NOT attempt to set forth in his amended complaint any additional claims, and he is advised that the Court will DISMISS any such claims.

Further, the Court NOTIFIES Plaintiff that this amended complaint will be the sole operative complaint that the Court considers, and therefore, it must be complete in and of itself and must not refer to any previously filed allegations or pleadings. Plaintiff is CAUTIONED that if he does not file an amended complaint by the deadline, the Court will DISMISS his complaint for failure to prosecute and comply with an order of the Court and for failure to state a claim.

The Court NOTIFIES Plaintiff that it WILL NOT consider any other kind of motion for relief until after the Court has screened the amended complaint pursuant to the PLRA, which the Court will do as soon as practicable.

Accordingly, the Court will automatically deny any motions filed before the Court has completed this screening. III. CONCLUSION For the reasons set forth above: 1. Plaintiff's motion for leave to proceed in forma pauperis (Doc. 4) is GRANTED; 2. Plaintiff is ASSESSED the civil filing fee of \$350.00; 3. Plaintiff's claims against Defendants are DISMISSED; 4.

The custodian of Plaintiff's inmate trust account is DIRECTED to submit the filing fee to the Clerk in the manner set forth above; 5. The Clerk is DIRECTED to forward Plaintiff a § 1983 form; 6. Plaintiff is ORDERED to complete the § 1983 form within fourteen (14) days in accordance with the directives stated above if he wishes to pursue this litigation; 7.

Plaintiff is NOTIFIED that failure to comply with this Order will result in the dismissal of this action; and 8. Plaintiff is ORDERED to immediately inform the Court of any address changes in

writing. Pursuant to Local Rule 83.13, it is the duty of a pro se party to promptly notify the Clerk and the other parties to the proceedings of any change in his address, to monitor the progress of the case, and to prosecute or defend the action diligently.

E.D. Tenn. L.R. 83.13. Failure to provide a correct address to this Court within fourteen (14) days of any change in address may result in the dismissal of this action. SO ORDERED. /s/ Travis R. McDonough TRAVIS R. MCDONOUGH UNITED STATES DISTRICT JUDGE