

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
DAKOTA, SOUTHERN DIVISION

Brooks v. Runge

Brooks · No. 4:25-CV-04002-ECS · Decided February 26, 2026

SUMMARY

The United States District Court for the District of South Dakota denied Marian Alexander Brooks’s motion to amend his complaint to add defendants, concluding that the proposed amendment would be futile and did not comply with Local Rule 15.1. The court also denied Brooks’s motion for appointed counsel, finding that his surviving claim was not complex and that he could investigate and present it adequately.

CASE DETAILS

COURT	United States District Court for the District of South Dakota, Southern Division
JURISDICTION	United States District Court for the District of South Dakota, Southern Division
DECIDED	February 26, 2026
DOCKET	4:25-CV-04002-ECS
DISPOSITION	other
PROCEDURAL POSTURE	Pro se plaintiff moved to amend his complaint to add seven defendants and moved for appointment of counsel. The defendant opposed amendment. The district court denied both motions.
STANDARD OF REVIEW	Leave to amend is governed by Federal Rule of Civil Procedure 15(a) (2) and should generally be freely given when justice requires, but may be denied when amendment would be futile. An amendment is futile if the proposed amended complaint could not withstand a Rule 12(b)(6) motion. Appointment of counsel for a pro se civil litigant is discretionary and depends on the complexity of the case, the litigant's ability to investigate facts and present the claim, and the existence of conflicting testimony.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Marian Alexander Brooks v. Zachary Runge

TOPICS

motion to amend pleadings civil procedure section 1983 first amendment

PRACTICE AREAS

civil procedure civil rights constitutional law

QUESTIONS PRESENTED

1. Whether Brooks should be granted leave to amend his complaint to add seven defendants.
2. Whether the proposed amendment would be futile because it failed to state plausible claims against the proposed defendants.
3. Whether the court should appoint counsel for Brooks in this civil-rights action.

HOLDINGS

1. Leave to amend was denied because the proposed amendment would be futile and Brooks also failed to comply with Local Rule 15.1.
2. The proposed amendment did not plausibly state an access-to-courts claim because Brooks alleged neither denial of access to the courts nor intentional motivation by Kalb to restrict that access.
3. Appointment of counsel was denied because Brooks's surviving claim was not complex and the court found that he could investigate the facts and present his claim adequately.

KEY QUOTATIONS

“Courts need oft grant leave to amend, however, if granting such leave would be futile.”

“A pro se litigant has no statutory or constitutional right to have counsel appointed in a civil case.”

FACTUAL BACKGROUND

Brooks sought to add seven defendants, but his filings generally supplied names without connecting the alleged misconduct to particular proposed defendants. He alleged that proposed defendant Karla Kalb, a court clerk, denied him access to paperwork, but did not plausibly allege denial of court access or intentional motivation to restrict access. Brooks also sought to reinstate the State of South Dakota and Minnehaha County Jail Staff, whom the court had previously found to be improper defendants.

PROCEDURAL HISTORY

Brooks filed a civil-rights action against Zachary Runge in his individual capacity. The court had previously dismissed claims against certain proposed defendants, including the State of South Dakota and Minnehaha County Jail Staff, and dismissed Fourth and Seventh Amendment claims with prejudice. Brooks then moved to amend and to appoint counsel; the court denied both motions.

DISPOSITION

CASES CITED

- H & Q Props. v. Doll, 793 F.3d 852, 857 (8th Cir. 2015)
- Cornelia I. Crowell GST Tr. v. Possis Med., Inc., 519 F.3d 778, 782 (8th Cir. 2008)
- Meinen v. Bi-State Dev. Agency, 101 F.4th 947, 950 (8th Cir. 2024)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Brooks v. State of S.D. Cts., No. 4:25-CV-04002-ECS, 2025 WL 2142312, at *4 (D.S.D. July 29, 2025)
- Morris v. City of Chillicothe, 512 F.3d 1013, 1020 (8th Cir. 2008)
- Scheeler v. City of St. Cloud, 402 F.3d 826, 830 (8th Cir. 2005)
- Mercy v. Bettelyoun, No. 5:25-CV-05068-RAL, 2026 WL 372134, at *1 (D.S.D. Feb. 10, 2026)
- Stevens v. Redwing, 146 F.3d 538, 546 (8th Cir. 1998)
- Schneider v. Badhand, No. 3:24-CV-03008-ECS, 2024 WL 4615776, at *4 (D.S.D. Oct. 30, 2024)

OPINION

UNITED STATES DISTRICT COURT DISTRICT OF SOUTH DAKOTA SOUTHERN DIVISION MARIAN ALEXANDER BROOKS, 4:25-CV-04002-ECS Plaintiff, ORDER DENYING MOTION TO AMEND AND DENYING MOTION FOR COUNSEL VS. ZACHARY RUNGE, Correctional officer at Jamison Annex Prison, individual capacity, Defendant. Pro se Plaintiff Marian Brooks moves the Court to join seven defendants to his Complaint.

Doc. 16 at 1. Brooks further moves the Court to appoint counsel. Id. For the reasons stated below, the motions are denied. I, Motion to Amend At this stage in the litigation, Brooks “may amend [his Complaint] only with the opposing party’s written consent or the court’s leave.” Fed. R. Civ. P. 15(a)(1){(2). Defendant opposes the amendment. Doc. 17. Even still, “[t]he court should freely give leave [to amend] when justice so requires.” Fed.

R. Civ. P. 15(a)(2). “Courts need oft grant leave to amend, however, if granting such leave would be futile.” H & Q Props. v. Doll, 793 F.3d 852, 857 (8th Cir. 2015) (citation omitted), An amendment would be futile if “the amended complaint could not withstand a motion to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure.” Cornelia I. Crowell GST Tr. v. Possis Med., Inc., 519 F.3d 778, 782 (8th Cir.

2008). In other words, a proposed amendment “must contain sufficient allegations, which accepted as true, ‘state a claim for relief that is plausible on its face.’” Meinen v. Bi-State Dev. Agency, 101 F.4th 947, 950 (8th Cir. 2024) (quoting Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)). Defendant argues that Brooks fails to clear this plausibility threshold for all proposed defendants because he supplies the new defendants’ names but “no additional information to support why such individuals and entities should be added.” Doc.

17 at 3. Taking a cue from that argument, Brooks attempts to fill the gaps with later filings. Docs. 18-19. But the offending conduct Brooks alleges remains unmatched to any ostensible defendant. See generally Docs. 18-19. So the Court cannot “draw the reasonable inference that [any of Brooks’ proposed defendants] is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 678 (citation omitted).

One exception is proposed defendant Karla Kalb, a Clerk of Court, who Brooks alleges denied him access to paperwork. Doc. 19 at 2. This allegation appears to be tied to Fourth and Seventh Amendment arguments this Court already dismissed from this case with prejudice. *Id.*; see *Brooks v. State of S.D. Cts.*, No. 4:25-CV-04002-ECS, 2025 WL 2142312, at *4 (D.S.D.

July 29, 2025). Under a broad construction, it is possible Brooks is instead claiming a denial of his First Amendment right to the access of courts. But to state such a claim, Brooks would have to plausibly allege he was (1) denied access to the courts, and (2) that Kalb acted “with some intentional motivation to restrict his access to the courts.” *Morris v. City of Chillicothe*, 512 F.3d 1013, 1020 (8th Cir.

2008) (citing *Scheeler v. City of St. Cloud*, 402 F.3d 826, 830 (8th Cir. 2005)). Brooks does neither. Merely stating that Kalb “fail[ed] to do [the] job [of] a clerk of court” does not give rise to a cause of action. Doc. 19 at 2. Elsewhere, Brooks seeks to reinstate as defendants the State of South Dakota and Minnehaha County Jail Staff, both of which this Court terminated from the action for being improper defendants.

Brooks, 2025 WL 2142312, at *4; see Doc. 17 at 3. The Court finds Brooks’ proposed amendment would be futile. Compounding this defect, Brooks fails to comply with our Local Rule 15.1, which requires “any party moving to amend or supplement a pleading [to] attach a copy of the proposed amended pleading to its motion to amend with the proposed changes highlighted or underlined so that they may be easily identified.” This rule applies in equal force to pro se litigants.

Mercy v. Bettelyoun, No. 5:25- CV-05068-RAL, 2026 WL 372134, at *1 (D.S.D. Feb. 10, 2026). II. Motion for Counsel Brooks states, “I do not know what I am doing,” and that he needs counsel to help him with his case. Doc. 16 at 1. “A pro se litigant has no statutory or constitutional right to have counsel appointed in a civil case.” *Stevens v. Redwing*, 146 F.3d 538, 546 (8th Cir.

1998). “In determining whether to appoint counsel to a pro se litigant, this Court considers the complexity of the case, the ability of the litigant to investigate the facts, the existence of conflicting testimony, and the litigant’s ability to present his claim.” *Schneider v. Badhand*, No. 3:24-CV- 03008-ECS, 2024 WL 4615776, at *4 (D.S.D. Oct. 30, 2024) (citing *Stevens*, 146 F.3d at 546).

At this time, Brooks’ surviving claim is not complex, and the Court believes he is able to investigate the facts and present his claim adequately. Ti. Order For the above stated reasons and

the record now before this Court, it is hereby ORDERED that Brooks' Motion to Amend Complaint, Doc. 16, is denied. It is further ORDERED that Brooks' Motion to Appoint Counsel, Doc.

16, is denied. DATED this 26th day of February, 2026. BY THE COURT: ERIC UNITED STATES DISTRICT JUDGE