

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
INDIANA, INDIANAPOLIS DIVISION

Gee v. Allen et al.

No. 1:25-cv-01594-JPH-KMB (S.D. Ind. Feb. 20, 2026) · No. No. 1:25-cv-01594-JPH-KMB · Decided
February 20, 2026

SUMMARY

The United States District Court for the Southern District of Indiana screens Damon T. Gee's prisoner complaint concerning allegedly contaminated water at Pendleton Correctional Facility. The court allows an injunctive-relief claim under the Safe Drinking Water Act against the warden in his official capacity and Eighth Amendment conditions-of-confinement claims against all defendants. The court dismisses Clean Water Act claims, damages claims under the Safe Drinking Water Act, and deliberate-indifference medical-care claims, and directs service of process.

CASE DETAILS

COURT	United States District Court for the Southern District of Indiana, Indianapolis Division
WRITING FOR THE COURT	James Patrick Hanlon
JURISDICTION	United States District Court for the Southern District of Indiana
DECIDED	February 20, 2026
DOCKET	No. 1:25-cv-01594-JPH-KMB
DISPOSITION	other
PROCEDURAL POSTURE	Screening of a prisoner's complaint under 28 U.S.C. § 1915A before service of process.
STANDARD OF REVIEW	Under 28 U.S.C. § 1915A, the court must dismiss claims that are frivolous, malicious, fail to state a claim, or seek monetary relief from an immune defendant. The court applies the Rule 12(b)(6) standard, accepting well-pleaded factual allegations as true but disregarding legal conclusions, and construes a pro se complaint liberally.
PRECEDENTIAL VALUE	unpublished district court order; nonprecedential
PARTIES	Damon T. Gee v. Trent Allen, Charlie Fox, W. Callahan, Jeremy Alberson, Andy Bagienski, Christina Wright, Marie Loyd, A. Wilson, V. Stanley

TOPICS

prisoners rights

cruel and unusual punishment

section 1983

clean water act

civil procedure

PRACTICE AREAS

civil rights

prisoner litigation

environmental law

civil procedure

QUESTIONS PRESENTED

1. Whether the complaint stated a claim under the Clean Water Act.
2. Whether the complaint stated a Safe Drinking Water Act claim for injunctive relief and damages.
3. Whether the complaint stated a deliberate-indifference claim based on denial of medical care.
4. Whether the complaint stated Eighth Amendment conditions-of-confinement claims against the defendants.

HOLDINGS

1. The Clean Water Act claims were dismissed because the complaint did not allege a discharge of pollutants into navigable waters by the defendants.
2. The Safe Drinking Water Act claim for injunctive relief could proceed against Warden Allen in his official capacity, but claims for damages under the Act against any defendant were dismissed.
3. The deliberate-indifference claims based on denial of medical care were dismissed because Gee did not identify how any particular defendant was personally involved in depriving him of needed medical care.
4. The Eighth Amendment conditions-of-confinement claims could proceed against all defendants based on allegations that each participated in the facility's water risk management team and failed to take adequate action to provide safe drinking and shower water.
5. Because Gee expressly identified the Clean Water Act, Safe Drinking Water Act, and Eighth Amendment as his legal theories, the court was not required to analyze whether the allegations stated a claim under a different theory.

KEY QUOTATIONS

“When screening a complaint, the Court must dismiss any portion that is frivolous or malicious, fails to state a claim for relief, or seeks monetary relief against a defendant who is immune from such relief.”

“The following claims are proceeding in this action: a claim for injunctive relief under the SDWA against Warden Allen only and Eighth Amendment conditions of confinement claims against all Defendants. All other claims have been dismissed.”

FACTUAL BACKGROUND

Gee, a prisoner at Pendleton Correctional Facility, alleged that the facility's water was contaminated with Legionnaire's disease, H. pylori, lead, and other contaminants, and was sometimes brown or black with a foul odor. He alleged that cellhouses J, G, and H lacked access to filtered drinking water, that staff and visitors were

advised not to drink the water, and that filters on showerheads were not consistently maintained. Gee claimed that he became ill, was denied medical treatment, and that the defendants participated in the facility's water risk management plan but failed to provide safe drinking and shower water.

PROCEDURAL HISTORY

Gee filed a civil-rights complaint alleging that contaminated water at Pendleton Correctional Facility violated the Eighth Amendment, the Clean Water Act, and the Safe Drinking Water Act. The district court screened the complaint before service, dismissed the Clean Water Act claims, damages claims under the Safe Drinking Water Act, deliberate-indifference medical-care claims, and other claims not identified as viable, while allowing an official-capacity Safe Drinking Water Act claim for injunctive relief against Warden Allen and Eighth Amendment conditions-of-confinement claims against all defendants to proceed. The court directed service of process and allowed the plaintiff until March 11, 2026, to seek reconsideration if additional claims were omitted.

DISPOSITION

other

CASES CITED

- Schillinger v. Kiley, 954 F.3d 990, 993 (7th Cir. 2020)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 570 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Cesal v. Moats, 851 F.3d 714, 720 (7th Cir. 2017)
- Sackett v. Environmental Protection Agency, 598 U.S. 651, 660 (2023)
- Larry v. Goldsmith, 799 F. App'x 413, 416 (7th Cir. 2019)
- Clancy v. Office of Foreign Assets Control of the U.S. Department of the Treasury, 559 F.3d 595, 606-07 (7th Cir. 2009)
- Hootstein v. Amherst-Pelham Regional School Committee, 361 F. Supp. 3d 94, 105 (D. Mass. 2019)
- Mays v. City of Flint, Michigan, 871 F.3d 437, 450 (6th Cir. 2017)
- Phan v. Aurora City Water Utility Administration, No. 21-CV-00960-GPG, 2021 WL 5629068, at *1 (D. Colo. Apr. 13, 2021)
- Colbert v. City of Chicago, 851 F.3d 649, 657 (7th Cir. 2017)
- Brooks v. Ross, 578 F.3d 574, 580 (7th Cir. 2009)

OPINION

GEE

PER CURIAM.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF INDIANA

INDIANAPOLIS DIVISION

DAMON T. GEE,)

) Plaintiff,)) v.) No. 1:25-cv-01594-JPH-KMB) TRENT ALLEN Warden,) CHARLIE FOX Deputy Warden,) W. CALLAHAN Maintenance,) JEREMY ALBERSON Maintenance,) ANDY BAGIENSKI Safety Management,) CHRISTINA WRIGHT Accountant,) MARIE LOYD Medical,) A. WILSON Medical,) V. STANLEY Maintenance,)) Defendants.)

ORDER SCREENING COMPLAINT AND DIRECTING

FURTHER PROCEEDINGS

Plaintiff Damon Gee is a prisoner currently incarcerated at Pendleton Correctional Facility ("Pendleton"). He filed this civil action alleging the presence of several pollutants in the water at Pendleton in violation of the Eighth Amendment and federal statutes. Because the plaintiff is a "prisoner," this Court must screen the complaint before service on the defendants. 28 U.S.C. § 1915A(a), (c). I. Screening Standard When screening a complaint, the Court must dismiss any portion that is frivolous or malicious, fails to state a claim for relief, or seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915A(b). To determine whether the complaint states a claim, the Court applies the same standard as when addressing a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). See *Schillinger v. Kiley*, 954 F.3d 990, 993 (7th Cir. 2020). Under that standard, a complaint must include "enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570

(2007). "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." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). The Court construes pro se complaints liberally and holds them to a "less stringent standard than pleadings drafted by lawyers." *Cesal v. Moats*, 851 F.3d 714, 720 (7th Cir. 2017). II. The Complaint The Court accepts Mr. Gee's factual allegations as true at the pleading stage but not his legal conclusions. See *Iqbal*, 556 U.S. at 678 ("we must take all of the factual allegations in the complaint as true," but "we 'are not bound to accept as true a legal conclusion couched as a factual allegation'") (quoting *Twombly*, 550 U.S. at 555)). The complaint names as defendants (1) Warden Trent Allen; (2) Deputy Warden Charlie Fox; (3) W. Callahan, facility maintenance; (4) Jeremy Alberson, facility maintenance; (5) Andy Bagienski, safety management; (6) Christina Wright, accountant; (7) Marie Loyd, medical worker; (8) A. Wilson, medical worker; and (9) V. Stanley, facility maintenance. Mr. Gee is seeking damages and injunctive relief to "make sure all cellhouses . . . have access to clean filter drinking water and shower water" Dkt. 1 at 6. Mr. Gee alleges that all Defendants "are part of the water risk management plan facility directive-244." *Id.* at 3. He further states that the water at Pendleton is "contaminated with Legionnaire's disease, H-pilori [sic], lead, and other contaminants and toxins."1 *Id.* The water also "is brown and black at times and has a very foul odor." *Id.* at 4. Although some cellhouses at Pendleton have access to filtered drinking water, cellhouses J, G, and H do not. Mr. Gee has been housed in G-house since April 2025. Also, staff and visitors at Pendleton are advised not to drink the water there and staff members are provided with bottled water to drink. Mr. Gee has become ill from having to drink the contaminated water and has been

denied medical treatment for those ailments. And, although filters are placed on the showerheads, other prisoners take off the filters and they are not replaced. Mr. Gee has submitted grievances about this issue, but they have been ignored. Mr. Gee alleges that Defendants' conduct violates the Clean Water Act ("CWA"), the Safe Drinking Water Act ("SDWA"), and the Eighth Amendment.

III. Discussion of Claims Although a plaintiff need not plead legal theories in a complaint, see Fed. R. Civ. P. 8(a), Mr. Gee has identified the theories he wishes to use—violations of the CWA, SDWA, and Eighth Amendment. Where a pro se litigant has expressly stated the legal theory he wishes to pursue, the district court is not required to analyze whether the allegations in the complaint might state a claim 1 Mr. Gee is not a participant in other lawsuits that have been filed regarding alleged Legionnaire's contamination at Pendleton. See, e.g., *Jackson et al. v. Holcomb et al.*, No. 1:21-cv-03120-JPH-KMB. under a different legal theory. See *Larry v. Goldsmith*, 799 F. App'x 413, 416 (7th Cir. 2016) (citing *Clancy v. Office of Foreign Assets Control of U.S. Dep't of Treasury*, 559 F.3d 595, 606-07 (7th Cir. 2009)). Thus, the court analyzes Mr. Gee's claims only under the theories he has identified. Applying the screening standard to the factual allegations in the complaint, certain claims are dismissed while other claims shall proceed as submitted. First, regarding the CWA, it governs the "discharge" of pollutants into "navigable waters." See *Sackett v. Env't Prot. Agency*, 598 U.S. 651, 660 (2023) (citing 33 U.S.C. §§ 1311(a), 1362(12)(A)). The allegations of the complaint do not allege any such "discharge" by Defendants. Any CSW claims are dismissed. Second, the SDWA was passed to establish uniform standards for public water systems and to reduce contamination in drinking water. 67 Am. Jur. Proof of Facts 3d 95 (Vinal, R. 2002) (citing 42 U.S.C. §§ 300f et seq.). The SDWA gives private persons authority to bring an enforcement action for injunctive relief, *Hootstein v. Amherst-Pelham Reg'l Sch. Comm.*, 361 F. Supp. 3d 94, 105 (D. Mass 2019), but "there is no private right of action for damages arising from a violation of the SDWA." *Mays v. City of Flint, Mich.*, 871 F.3d 437, 450 (6th Cir. 2017) (citation omitted); see also *Phan v. Aurora City Water Util. Admin.*, No. 21-CV- 00960-GPG, 2021 WL 5629068, at *1 (D. Colo. Apr. 13, 2021). Based on the screening standard above and Mr. Gee's requests for injunctive relief to remedy the contaminated water, his SDWA claims shall proceed only against Warden Allen in his official capacity. Any claims for damages against any Defendant are dismissed. Third, to the extent Mr. Gee suggests Defendants were deliberately indifferent to his need for medical care, he has not specified how any of them were personally involved in depriving him of needed care. "[I]ndividual liability under § 1983 . . . requires personal involvement in the alleged constitutional deprivation." *Colbert v. City of Chicago*, 851 F.3d 649, 657 (7th Cir. 2017) (internal quotation omitted). It is insufficient to plead that "one or more" defendants deprived a plaintiff of his constitutional rights without connecting specific defendants to illegal acts. See *Brooks v. Ross*, 578 F.3d 574, 580 (7th Cir. 2009). Any deliberate indifference claims based on medical care are dismissed. Finally, Eighth Amendment conditions of confinement claims shall proceed against all Defendants based on Mr. Gee's allegations that each of them has been part of a water risk management team at Pendleton and failed to take adequate action to provide safe

drinking and shower water in cellhouses J, G, and H at Pendleton. This summary of claims includes all of the viable claims identified by the Court. All other claims have been dismissed. If the plaintiff believes that additional claims were alleged in the complaint, but not identified by the Court, he shall have through March 11, 2026, in which to file a motion to reconsider the screening order. IV. Conclusion and Service of Process The following claims are proceeding in this action: a claim for injunctive relief under the SDWA against Warden Allen only and Eighth Amendment conditions of confinement claims against all Defendants. All other claims have been dismissed. The clerk is directed pursuant to Fed. R. Civ. P. 4(c)(3) to issue process to defendants Trent Allen, Charlie Fox, W. Callahan, Jeremy Alberson, Andy Bagienski, Christina Wright, Marie Loyd, A. Wilson, and V. Stanley in the manner specified by Rule 4(d). Process shall consist of the complaint filed on August 11, 2025, dkt. [1], applicable forms (Notice of Lawsuit and Request for Waiver of Service of Summons and Waiver of Service of Summons), and this Order. The Court judicially notes that although Mr. Gee identifies defendants Loyd and Wilson as Indiana Department of Correction employees, Centurion Health of Indiana contracts with the State to provide medical care at all correctional facilities. The Court therefore will direct that a copy of this Order and the process documents to be served on Centurion electronically. Centurion is ORDERED to provide the full name and last known home address of any defendant who does not waive service if they have such information. This information shall be filed ex parte. The clerk is directed to serve the Indiana Department of Correction and Centurion employees electronically. Nothing in this Order prohibits the filing of a proper motion pursuant to Rule 12 of the Federal Rules of Civil Procedure. SO ORDERED. Date: 2/20/2026 Pas + James Patrick Hanlon United States District Judge Southern District of Indiana Distribution: Electronic service to Indiana Department of Correction: Trent Allen Charlie Fox W. Callahan Jeremy Alberson Andy Bagienski Christina Wright V. Stanley (All at Pendleton Correctional Facility) Electronic Service to Centurion A. Wilson Marie Loyd
DAMON T. GEE

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PENDLETON - CF

PENDLETON CORRECTIONAL FACILITY

Electronic Service Participant — Court Only