

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Grayson v. Lynch

Grayson · No. 2:24-cv-1488-JDP (P) · Decided March 11, 2025

OPINION

(PC) Grayson v. Lynch

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 JASON GRAYSON, Case No. 2:24-cv-1488-JDP (P) 12 Plaintiff, 13 v. ORDER 14 JEFF
LYNCH, et al., 15 Defendants. 16 17 18 Plaintiff, a state prisoner proceeding pro se, brings this §
1983 action against Vang, a 19 correctional officer, alleging that Vang violated his Eighth
Amendment right against cruel and 20 unusual punishment. ECF No. 15. The allegations fail to
state a claim. Plaintiff may, if he 21 chooses, file an amended complaint that addresses the
deficiencies noted herein. 22 Screening and Pleading Requirements 23 A federal court must screen
the complaint of any claimant seeking permission to proceed 24 in forma pauperis. See 28 U.S.C.
§ 1915(e). The court must identify any cognizable claims and 25 dismiss any portion of the
complaint that is frivolous or malicious, fails to state a claim upon 26 which relief may be granted,
or seeks monetary relief from a defendant who is immune from such 27 relief. Id. 28 A complaint
must contain a short and plain statement that plaintiff is entitled to relief, 1 Fed. R. Civ. P. 8(a)(2),
and provide “enough facts to state a claim to relief that is plausible on its 2 face,” Bell Atl. Corp.
v. Twombly, 550 U.S. 544, 570 (2007). The plausibility standard does not 3 require detailed
allegations, but legal conclusions do not suffice. See Ashcroft v. Iqbal, 556 U.S. 4 662, 678
(2009). If the allegations “do not permit the court to infer more than the mere 5 possibility of
misconduct,” the complaint states no claim. Id. at 679. The complaint need not 6 identify “a
precise legal theory.” Kobold v. Good Samaritan Reg’l Med. Ctr., 832 F.3d 1024, 7 1038 (9th Cir.
2016). Instead, what plaintiff must state is a “claim”—a set of “allegations that 8 give rise to an
enforceable right to relief.” Nagrampa v. MailCoups, Inc., 469 F.3d 1257, 1264 9 n.2 (9th Cir.
2006) (en banc) (citations omitted). 10 The court must construe a pro se litigant’s complaint
liberally. See Haines v. Kerner, 404 11 U.S. 519, 520 (1972) (per curiam). The court may dismiss
a pro se litigant’s complaint “if it 12 appears beyond doubt that the plaintiff can prove no set of
facts in support of his claim which 13 would entitle him to relief.” Hayes v. Idaho Corr. Ctr., 849
F.3d 1204, 1208 (9th Cir. 2017). 14 However, ““a liberal interpretation of a civil rights complaint
may not supply essential elements 15 of the claim that were not initially pled.”” Bruns v. Nat’l

Credit Union Admin., 122 F.3d 1251, 16 1257 (9th Cir. 1997) (quoting *Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982)). 17 Analysis 18 In his second amended complaint, plaintiff alleges substantially the same facts as were 19 alleged in his first amended complaint. ECF No. 15. He alleges that at approximately 5:00 p.m. 20 on March 14, 2024, he informed officer Diaz that he was experiencing suicidal ideations. Id. at 7. 21 He claims that Diaz and Vazquez, another officer on duty, escorted him to the medical facility to 22 be evaluated by a clinician, who arrived between two and four hours later. Id. When plaintiff 23 tried to explain his concerns, he alleges that the clinician stated that he could not hear plaintiff 24 and left. Id. Diaz and Vazquez asked plaintiff whether he wanted to return to his cell or wait for 25 a different clinician. Id. Plaintiff claims that he opted to see another clinician, but this time, the 26 officers returned plaintiff to a safety cell, which was outside and covered with blood and bird 27 feces. Id. at 8. Plaintiff alleges that he waited in the outdoor cell for four hours until another 28 clinician arrived. Id. After speaking to this clinician, the clinician determined that plaintiff could 1 return to his cell, but plaintiff was not satisfied with this response. Id. Diaz offered to take 2 plaintiff back to his cell, but plaintiff declined. Id. 3 Shortly thereafter, Diaz was relieved by defendant Vang during a shift change around 4 10:00 p.m. Id. at 9. Plaintiff alleges that it began to get cold in the safety cell and his arthritis 5 started to flare up from standing for so many hours. Id. Plaintiff claims that he asked Vang if 6 Vang had called for another clinician, and Vang responded that he and another individual had 7 called for one. Id. Following this interaction, Vang ignored plaintiff for the remainder of Vang's 8 shift. Id. During the next shift change, plaintiff alleges that he was approached by two other 9 officers who informed him that no clinician was coming, and that if he did not return to his cell, 10 "things would get worse for him." Id. Plaintiff returned to his cell after informing these two 11 officers that he remained suicidal. Id. 12 Plaintiff claims that Vang carelessly deprived him from accessing mental health care by 13 ignoring his requests for a psychological evaluation. Id. at 14. He also contends that Vang 14 observed him standing outside for almost eleven hours, overnight, in forty-degree weather with 15 nothing to shield him from the elements. Id. He alleges that placement in the outside cell was 16 used as punishment after he sought to access mental healthcare resources. Id. 17 Plaintiff's complaint fails to state a viable Eighth Amendment claim. Deliberate 18 indifference to a prisoner's serious medical needs violates the Eighth Amendment's proscription 19 against cruel and unusual punishment. See *Estelle v. Gamble*, 429 U.S. 97, 104 (1976); 20 *McGuckin v. Smith*, 974 F.2d 1050, 1059 (9th Cir. 1992), overruled in part on other grounds by 21 *WMX Technologies, Inc. v. Miller*, 104 F.3d 1133, 1136 (9th Cir. 1997) (en banc). A 22 determination of "deliberate indifference" involves an examination of two elements: the 23 seriousness of the prisoner's medical need and the nature of the defendant's response to that need. 24 See *McGuckin*, 974 F.2d at 1059. 25 A "serious" medical need exists if the failure to treat a prisoner's condition could result in 26 further significant injury or the "unnecessary and wanton infliction of pain." Id. (citing *Estelle*, 27 429 U.S. at 104). A prison official is deliberately indifferent if he knows that a prisoner faces a 28 substantial risk of serious harm and disregards

that risk by failing to take reasonable steps to abate 1 it. Farmer v. Brennan, 511 U.S. 825, 837 (1994). The prison official must not only “be aware of 2 facts from which the inference could be drawn that a substantial risk of serious harm exists,” but 3 he “must also draw the inference.” Id. If a prison official should have been aware of the risk, but 4 was not, then the official has not violated the Eighth Amendment, no matter how severe the risk. 5 Gibson v. Cnty. of Washoe, 290 F.3d 1175, 1188 (9th Cir. 2002). 6 There is no indication in these pleadings that Vang knew plaintiff faced a substantial risk 7 of serious harm or disregarded that risk by failing to take reasonable steps to abate it. See 8 Farmer, 511 U.S. at 837. Instead, the complaint alleges that plaintiff opted to wait for a clinician 9 in the outside cell, and that Vang and another officer informed plaintiff that they had called for a 10 third evaluation. Plaintiff makes no allegation that he sought to go inside at any point, or that 11 Vang knew he was uncomfortable or needed assistance while inside the safety cell. Finally, 12 plaintiff’s allegation that Vang punished him for seeking medical help is conclusory and 13 unsupported by any factual allegation, as plaintiff’s allegations demonstrate that he was already in 14 the cell when Vang’s shift started, and plaintiff does not allege that Vang purposefully kept him 15 inside the cell for any other reason than to await a clinician. 16 Accordingly, plaintiff’s complaint is dismissed for failure to state a claim. I will allow 17 plaintiff another opportunity to amend his complaint before recommending that this action be 18 dismissed. Plaintiff should also take care to add specific factual allegations against each 19 defendant. If plaintiff decides to file an amended complaint, the amended complaint will 20 supersede the current one. See Lacey v. Maricopa Cnty., 693 F.3d 896, 907 n.1 (9th Cir. 2012) 21 (en banc). This means that the amended complaint will need to be complete on its face without 22 reference to the prior pleading. See E.D. Cal. Local Rule 220. Once an amended complaint is 23 filed, the current one no longer serves any function. Therefore, in an amended complaint, as in 24 the original, plaintiff will need to assert each claim and allege each defendant’s involvement in 25 sufficient detail. The amended complaint should be titled “Third Amended Complaint” and refer 26 to the appropriate case number. If plaintiff does not file an amended complaint, I will 27 recommend that this action be dismissed. 28 Accordingly, it is hereby ORDERED that: 1 1. Plaintiff’s second amended complaint, ECF No. 15, is DISMISSED with leave to 2 | amend. 3 2. Within thirty days from service of this order, plaintiff shall file either (1) an amended 4 | complaint or (2) notice of voluntary dismissal of this action without prejudice. 5 3. Failure to timely file either an amended complaint or notice of voluntary dismissal may 6 | result in the imposition of sanctions, including a recommendation that this action be dismissed 7 | with prejudice pursuant to Federal Rule of Civil Procedure 41(b). 8 4. The Clerk of Court shall send plaintiff a complaint form with this order. 9 10 IT IS SO ORDERED. 11 (ie — Dated: _ March 11, 2025 q———

12 JEREMY D. PETERSON

13 B UNITED STATES MAGISTRATE JUDGE

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