

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Mahmoud Elmilligy v. CVS Pharmacy, Inc. et al.

Civil Action No. 25-13497 (D.N.J. Nov. 24, 2025) · No. 2:25-cv-13497 · Decided November 24, 2025

SUMMARY

The United States District Court for the District of New Jersey grants Mahmoud Elmilligy’s application to proceed in forma pauperis but dismisses his complaint without prejudice. The court concludes that the § 1983 claims lack allegations of state action, HIPAA provides no private right of action, and the remaining negligence claim does not establish federal-question or diversity jurisdiction.

CASE DETAILS

COURT	United States District Court for the District of New Jersey
WRITING FOR THE COURT	Jamel K. Semper
JURISDICTION	United States District Court for the District of New Jersey
DECIDED	November 24, 2025
DOCKET	2:25-cv-13497
DISPOSITION	dismissed
PROCEDURAL POSTURE	The court sua sponte screened a pro se complaint under 28 U.S.C. § 1915(e)(2)(B) after granting the plaintiff's application to proceed in forma pauperis.
STANDARD OF REVIEW	The court applied the Rule 12(b)(6) failure-to-state-a-claim standard through 28 U.S.C. § 1915(e)(2)(B), liberally construing the pro se complaint while requiring compliance with Federal Rule of Civil Procedure 8.
PRECEDENTIAL VALUE	unpublished

TOPICS

- subject matter jurisdiction
- section 1983
- hipaa
- civil procedure

PRACTICE AREAS

- civil procedure
- civil rights
- health law
- torts

QUESTIONS PRESENTED

1. Whether the complaint stated a claim under 42 U.S.C. § 1983 against private defendants absent allegations of state action.
2. Whether HIPAA provides a private right of action for alleged HIPAA violations.
3. Whether the court had federal-question or diversity subject matter jurisdiction over the remaining negligence claim.
4. Whether the complaint was subject to dismissal under 28 U.S.C. § 1915(e)(2)(B).

HOLDINGS

1. A Section 1983 claim does not extend to private conduct unless the plaintiff alleges facts showing that the defendant acted under color of state law or that the state was sufficiently involved to constitute state action. Because Plaintiff alleged no wrongdoing by a state actor and no facts establishing state action, the Section 1983 claim was dismissed for failure to state a claim.
2. HIPAA does not provide a private right of action to remedy alleged HIPAA violations. Plaintiff's HIPAA claim was therefore dismissed for failure to state a claim.
3. The negligence claim did not arise under the Constitution or federal law and therefore did not establish federal-question jurisdiction.
4. Diversity jurisdiction was not established because the complaint did not allege or request any amount of damages, including an amount in controversy exceeding \$75,000.
5. A court must dismiss an action proceeding in forma pauperis if it is frivolous, fails to state a claim upon which relief may be granted, or seeks monetary relief from an immune defendant. Applying that standard, the court dismissed the complaint without prejudice.

KEY QUOTATIONS

“a district court may allow a plaintiff to commence a civil action without paying the filing fee—that is, in forma pauperis—so long as the plaintiff submits an affidavit demonstrating he or she is “unable to pay such fees,””

“Pro se complaints are “liberally construed” and “held to less stringent standards than formal pleadings drafted by lawyers.””

“a short and plain statement of the claim showing that the pleader is entitled to relief;”

“more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do.”

FACTUAL BACKGROUND

Plaintiff alleged that CVS and other defendants violated his civil rights, withheld his medication in breach of a duty of care, and violated HIPAA. The complaint did not allege wrongdoing by a state actor or facts showing that any defendant acted under color of state law. It also did not allege or request a specific amount of damages, and the remaining negligence claim was characterized as a state-law tort claim.

PROCEDURAL HISTORY

Plaintiff filed a pro se complaint against CVS Pharmacy, Inc. and other defendants, together with an application to proceed in forma pauperis and supplemental written responses. The district court granted the application, screened the complaint, dismissed the federal civil-rights and HIPAA claims for failure to state a claim, found no basis for federal subject matter jurisdiction over the remaining negligence claim, dismissed the complaint without prejudice, denied as moot a motion to compel a ruling on the IFP application, and closed the matter.

DISPOSITION

dismissed

CASES CITED

- Shorter v. United States, 12 F.4th 366, 371, 374 (3d Cir. 2021)
- Erickson v. Pardus, 551 U.S. 89, 94 (2007) (per curiam)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Nat'l Collegiate Ath. Ass'n v. Tarkanian, 488 U.S. 179, 191-192 (1988)
- In re U.S. Vision Data Breach Litig., No. 22-06558, 2025 WL 615366, at *9 (D.N.J. Feb. 26, 2025)
- Polanco v. Omnicell, Inc., 988 F. Supp. 2d 451, 468-69 (D.N.J. 2013)
- Fernandes v. DAR Dev. Corp., Inc., 222 N.J. 390, 403-404 (2015)
- Nicholas v. Mynster, 213 N.J. 463, 478 (2012)