

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

Stuart D. Howard v. Andrew Barksdale et al.

No. 4:25CV3136 (D. Neb. Jan. 2, 2026) · No. 4:25CV3136 · Decided January 2, 2026

SUMMARY

The United States District Court for the District of Nebraska conducts an initial review of Stuart D. Howard’s 42 U.S.C. § 1983 complaint alleging excessive force during his arrest. The court dismisses without prejudice claims against the Lincoln Police Department, Lancaster County Task Force, and the defendants in their official capacities, while allowing the Fourth Amendment excessive-force claim to proceed against the individual officer defendants. The court orders service of process and extends the service deadline to 90 days from the order.

CASE DETAILS

COURT	United States District Court for the District of Nebraska
WRITING FOR THE COURT	Joseph F. Bataillon
JURISDICTION	United States District Court for the District of Nebraska
DECIDED	January 2, 2026
DOCKET	4:25CV3136
DISPOSITION	other
PROCEDURAL POSTURE	Initial review of a pro se inmate's in forma pauperis complaint under 28 U.S.C. §§ 1915(e) and 1915A alleging excessive force under 42 U.S.C. § 1983.
STANDARD OF REVIEW	Under 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b), the court must dismiss a prisoner or in forma pauperis complaint that is frivolous or malicious, fails to state a claim, or seeks monetary relief from an immune defendant. The court liberally construes a pro se complaint and accepts its factual allegations as true for purposes of initial review, while applying the plausibility standard under Bell Atlantic Corp. v. Twombly and Ashcroft v. Iqbal.
PRECEDENTIAL VALUE	unpublished district court memorandum and order; nonprecedential
PARTIES	Stuart D. Howard v. Andrew Barksdale, Eirich, J. Tenney, Hyland, Wiarda, Berry, Lincoln Police Department, Kossow, Lancaster County Task Force, Eisenmenger

TOPICS

section 1983 police misconduct municipal liability civil rights service of process

PRACTICE AREAS

civil rights constitutional law prisoner civil rights municipal liability civil procedure

QUESTIONS PRESENTED

1. Whether the Lincoln Police Department and Lancaster County Task Force are suable persons or entities under 42 U.S.C. § 1983.
2. Whether the complaint stated a municipal-liability claim against the governmental entities through the official-capacity claims.
3. Whether the complaint stated a plausible Fourth Amendment excessive-force claim against the officer defendants in their individual capacities.
4. Whether the course of proceedings supported construing ambiguously pleaded officer claims as brought in both official and individual capacities.

HOLDINGS

1. The Lincoln Police Department and Lancaster County Task Force are not generally persons or distinct legal entities amenable to suit under § 1983, so the claims against them were dismissed without prejudice.
2. The complaint failed to state official-capacity claims because it did not allege that the constitutional violation resulted from a municipal policy, custom, or deliberately indifferent failure to train or supervise.
3. Because Howard sought punitive damages, which are unavailable against officials sued solely in their official capacities, the complaint fairly indicated an intent to impose personal liability; the court therefore construed the ambiguous claims as brought against the officers in both official and individual capacities.
4. The complaint plausibly stated an excessive-force claim against the officer defendants in their individual capacities because it alleged that Howard was seized, complied with directives, posed no immediate threat, and was injured by force while lying on the ground.

KEY QUOTATIONS

“A suit against a public official in his official capacity is actually a suit against the entity for which the official is an agent.” (Section III.B.1)

“Objective unreasonableness is ‘judged from the perspective of a reasonable officer on the scene,’ in light of ‘the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.’” (Section III.B.2)

“For purposes of initial review only, Plaintiff has stated a plausible Fourth Amendment excessive force claim against defendants Andrew Barksdale, Eirich, J. Tenney, Hyland, Wiarda, Berry, Kossow, and Eisenmenger in their individual capacities.” (Section IV)

FACTUAL BACKGROUND

Howard, an inmate in the Nebraska Department of Correctional Services, alleged that officers arrested him in a Lincoln, Nebraska, Target parking lot on December 1, 2023. He alleged that he followed all directives to get on the ground but that the officers used force while he was lying helpless, injuring his shoulder, neck, head, and back. His shoulder required surgery and physical therapy, and he also alleged continuing pain, limited movement, and PTSD.

PROCEDURAL HISTORY

Howard filed a § 1983 complaint on June 26, 2025, and was granted leave to proceed in forma pauperis. The court conducted the required initial screening and dismissed without prejudice the claims against the Lincoln Police Department, the Lancaster County Task Force, and the individual defendants in their official capacities. The court allowed the Fourth Amendment excessive-force claim against the individual defendants in their individual capacities to proceed and directed service of process.

DISPOSITION

other

CASES CITED

- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 569-70 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Topchian v. JPMorgan Chase Bank, N.A., 760 F.3d 843, 848-49 (8th Cir. 2014)
- West v. Atkins, 487 U.S. 42, 48 (1988)
- Buckley v. Barlow, 997 F.2d 494, 495 (8th Cir. 1993)
- Ferrell v. Williams County Sheriff's Office, No. 4:14-CV-131, 2014 WL 6453601, at *2 (D.N.D. Nov. 4, 2014)
- Ketchum v. City of West Memphis, 974 F.2d 81, 82 (8th Cir. 1992)
- Fehderau v. Omaha Police Department, No. 8:18CV592, 2019 WL 4858303, at *2 (D. Neb. Oct. 2, 2019)
- Meyer v. Lincoln Police Department, 347 F. Supp. 2d 706, 706 (D. Neb. 2004)
- S.A.A. v. Geisler, 127 F.4th 1133, 1139-40 (8th Cir. 2025)
- Elder-Keep v. Aksamit, 460 F.3d 979, 986 (8th Cir. 2006)
- Rogers v. City of Little Rock, 152 F.3d 790, 800 (8th Cir. 1998)
- Monell v. Department of Social Services, 436 U.S. 658, 691 (1978)
- Veatch v. Bartels Lutheran Home, 627 F.3d 1254, 1257 (8th Cir. 2010)
- City of Los Angeles v. Heller, 475 U.S. 796, 799 (1986) (per curiam)

- Sanders v. City of Minneapolis, 474 F.3d 523, 527 (8th Cir. 2007)
- City of Canton v. Harris, 489 U.S. 378, 388-92 (1989)
- Corwin v. City of Independence, 829 F.3d 695, 699-700 (8th Cir. 2016)
- Jane Doe A By & Through Jane Doe B v. Special School District of St. Louis County, 901 F.2d 642, 645 (8th Cir. 1990)
- Pembaur v. City of Cincinnati, 475 U.S. 469, 483 (1986)
- Malone v. Hinman, 847 F.3d 949, 955 (8th Cir. 2017)
- Marsh v. Phelps County, 902 F.3d 745, 751 (8th Cir. 2018)
- Thompson v. Dill, 930 F.3d 1008, 1013 (8th Cir. 2019)
- Loch v. City of Litchfield, 689 F.3d 961, 965 (8th Cir. 2012)
- Coker v. Arkansas State Police, 734 F.3d 838, 842 (8th Cir. 2013)
- Bishop v. Glazier, 723 F.3d 957, 961 (8th Cir. 2013)
- Atkinson v. City of Mountain View, 709 F.3d 1201, 1208-09 (8th Cir. 2013)
- Wilson v. Lamp, 901 F.3d 981, 989 (8th Cir. 2018)
- Graham v. Connor, 490 U.S. 386, 396 (1989)
- Smith v. Kansas City, Missouri Police Department, 586 F.3d 576, 581 (8th Cir. 2009)
- Wright v. First Student, Inc., 710 F.3d 782, 783 (8th Cir. 2013)
- Moore v. Jackson, 123 F.3d 1082, 1085 (8th Cir. 1997)
- Beyer v. Pulaski County Jail, 589 F. App'x 798 (8th Cir. 2014) (unpublished)
- Graham v. Satkoski, 51 F.3d 710, 713 (7th Cir. 1995)

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