

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Lemelle v. Nguyen

No. 25-cv-02166 BLF (PR) (N.D. Cal. July 23, 2025) · No. 25-cv-02166 BLF (PR) · Decided July 23, 2025

SUMMARY

The United States District Court for the Northern District of California screened a prisoner’s 42 U.S.C. § 1983 complaint alleging deliberate indifference to serious medical needs. The court allowed Eighth Amendment claims against Dr. Nguyen, Scott Langevine, Nurse Thorne, Nurse Ortiz, and Sgt. Selby to proceed, dismissed the remaining claims with prejudice, and directed service and the filing of dispositive motions.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Beth Labson Freeman
JURISDICTION	United States District Court for the Northern District of California
DECIDED	July 23, 2025
DOCKET	25-cv-02166 BLF (PR)
DISPOSITION	other
PROCEDURAL POSTURE	A state prisoner proceeding pro se filed a 42 U.S.C. § 1983 action against medical and correctional staff at Salinas Valley State Prison. The district court screened the complaint under 28 U.S.C. § 1915A, dismissed some claims with prejudice, allowed Eighth Amendment deliberate-indifference claims to proceed, ordered service, and set a deadline for defendants to file a dispositive motion.
STANDARD OF REVIEW	Under 28 U.S.C. § 1915A, the court must screen a prisoner's complaint seeking relief from a governmental entity or officer and dismiss claims that are frivolous, malicious, fail to state a claim, or seek monetary relief from an immune defendant. Pro se pleadings are liberally construed.
PRECEDENTIAL VALUE	Unknown; district-court order issued at the pleading-screening stage.

TOPICS

- section 1983
- prisoners rights
- health law
- civil rights
- civil procedure

PRACTICE AREAS

civil rights

prisoner medical care

federal civil procedure

constitutional law

health law

QUESTIONS PRESENTED

1. Whether the complaint stated cognizable Eighth Amendment claims for deliberate indifference to serious medical needs against the identified prison medical and correctional defendants.
2. Whether the alleged disclosure of prison medical records stated a claim under HIPAA or the Constitution.
3. Whether the alleged conspiracy between Nurse Ortiz and Sgt. Selby constituted a separate claim under 42 U.S.C. § 1983.
4. Whether the action should proceed to service and dispositive-motion practice on the cognizable claims.

HOLDINGS

1. The allegations that defendants delayed or denied treatment for Plaintiff's serious shoulder injuries and failed to respond reasonably to his medical-care complaints were sufficient at the screening stage to state Eighth Amendment claims for deliberate indifference to serious medical needs.
2. The alleged disclosure of Plaintiff's medical records did not state a viable claim because HIPAA does not provide a private right of action, and a prisoner has no constitutionally protected expectation of privacy in prison treatment records when the state has a legitimate interest in accessing them.
3. The alleged conspiracy between Nurse Ortiz and Sgt. Selby did not state a separate constitutional tort under 42 U.S.C. § 1983.
4. Leave to amend was denied for the records-disclosure and conspiracy claims because the deficiencies were not factually curable, and those claims were dismissed with prejudice.

KEY QUOTATIONS

"To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential elements: (1) that a right secured by the Constitution or laws of the United States was violated, and (2) that the alleged violation was committed by a person acting under the color of state law." (at 3)

"These allegations are sufficient to state an Eighth Amendment claim for deliberate indifference to serious medical needs." (at 4)

"HIPPA does not provide a private right of action." (at 5)

"Lastly, conspiracy is not itself a constitutional tort under 42 U.S.C. § 1983." (at 5)

FACTUAL BACKGROUND

Plaintiff alleged that he suffered a torn right rotator cuff in August 2022, experienced severe pain and limited mobility, and repeatedly sought medical treatment and an MRI. He alleged delays and denials of treatment from April 2023 through December 2024, later experiencing problems with his left shoulder as well. Plaintiff claimed that medical and correctional staff prevented access to his primary-care provider, denied or delayed treatment,

and failed to respond reasonably to his complaints, causing continuing pain, sleep problems, limited mobility, and possible lifelong impairment. He also alleged that Nurse Ortiz disclosed medical records to Sgt. Selby without permission and that the two defendants conspired to cause him to leave a medical appointment without an examination.

PROCEDURAL HISTORY

Plaintiff filed the action against staff at Salinas Valley State Prison. The court conducted mandatory prisoner screening under 28 U.S.C. § 1915A, found cognizable Eighth Amendment claims against Dr. Nguyen, Chief Medical Officer Scott Langevine, Nurse Thorne, Nurse Ortiz, and Sgt. Selby, and dismissed all other claims with prejudice. The court directed service through the California Department of Corrections and Rehabilitation's e-service program and ordered defendants to file a summary-judgment or other dispositive motion within 91 days.

DISPOSITION

other

CASES CITED

- Balistreri v. Pacifica Police Dep't, 901 F.2d 696, 699 (9th Cir. 1990)
- West v. Atkins, 487 U.S. 42, 48 (1988)
- Estelle v. Gamble, 429 U.S. 97, 104 (1976)
- McGuckin v. Smith, 974 F.2d 1050, 1059 (9th Cir. 1992)
- WMX Technologies, Inc. v. Miller, 104 F.3d 1133, 1136 (9th Cir. 1997) (en banc)
- Webb v. Smart Document Sols., LLC, 499 F.3d 1078, 1081 (9th Cir. 2007)
- Seaton v. Mayberg, 610 F.3d 530, 533-34 (9th Cir. 2010)
- Lacey v. Maricopa County, 693 F.3d 896, 935 (9th Cir. 2012) (en banc)
- Schmier v. United States Court of Appeals, 279 F.3d 817, 824 (9th Cir. 2002)
- Rand v. Rowland, 154 F.3d 952, 963 (9th Cir. 1998) (en banc)
- Woods v. Carey, 684 F.3d 934, 940 (9th Cir. 2012)
- Celotex Corp. v. Catrett, 47 U.S. 317 (1986)
- Ghazali v. Moran, 46 F.3d 52, 53-54 (9th Cir. 1995) (per curiam)
- Brydges v. Lewis, 18 F.3d 651, 653 (9th Cir. 1994)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 NORTHERN DISTRICT OF
CALIFORNIA 10 MICHAEL S. LEMELLE, 11 Case No. 25-cv-02166 BLF (PR) Plaintiff, 12
ORDER OF PARTIAL DISMISSAL AND OF SERVICE; DIRECTING 13 v. DEFENDANTS TO
FILE DISPOSITIVE MOTION OR 14 DR. NGUYEN, et al., NOTICE REGARDING SUCH
MOTION; INSTRUCTIONS TO 15 Defendants. CLERK 16 17 18 Plaintiff, a state inmate, filed

the instant pro se civil rights action pursuant to 42 U.S.C. § 1983 against staff at Salinas Valley State Prison (“SVSP”) where he is currently incarcerated.

Dkt. No. 1. Plaintiff’s motion for leave to proceed in forma pauperis will be addressed in a separate order. DISCUSSION A. Standard of Review A federal court must conduct a preliminary screening in any case in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity. See 28 U.S.C. § 1915A(a).

In its review, the court must identify any claim upon which relief may be granted or seek monetary relief from a defendant who is immune from such relief. See *id.* § 1915A(b)(1), (2). Pro se pleadings must, however, be liberally construed. See *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1988). To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential elements: (1) that a right secured by the Constitution or laws of the United States was violated, and (2) that the alleged violation was committed by a person acting under the color of state law.

See *West v. Atkins*, 487 U.S. 42, 48 (1988). B. Plaintiff’s Claims Plaintiff claims that in August 2022, he suffered a torn rotator cuff in his right shoulder. Dkt. No. 1 at 4. He experienced severe pain and limited mobility and filed medical grievances seeking treatment, including an MRI. *Id.* From April 2023 through December 2024, Plaintiff sought treatment for the injury but experienced delays and denials; he eventually experienced trouble with his left shoulder as well.

Id. at 4-10. He spoke with Defendants Nurse Thorne, Nurse Ortiz, and Sgt. Selby on separate occasions, and he alleges they played “gatekeeper” in preventing him from seeing his PCP (primary care provider). *Id.* at 11. Plaintiff also claims Defendant Dr. Nguyen, his PCP, acted with deliberate indifference to his serious medical needs when he repeatedly refused to see and examine Plaintiff, as well as delaying and denying treatment.

Id. Plaintiff claims Defendant Scott Langevine, the Chief Medical Officer at SVSP, acted with deliberate indifference when he failed to respond reasonably to Plaintiff’s complaints of being denied medical care. *Id.* at 12. Plaintiff alleges that due to Defendants’ actions, he suffered pain, discomfort, trouble sleeping, lack of mobility and possibly lifelong handicap.

Id. These allegations are sufficient to state an Eighth Amendment claim for deliberate indifference to serious medical needs. *Estelle v. Gamble*, 429 U.S. 97, 104 (1976); *McGuckin v. Smith*, 25 F.2d 1050, 1059 (9th Cir. 1992), overruled on other grounds, *WMX Technologies, Inc. v. Miller*, 104 F.3d 1133, 1136 (9th Cir. 1997) (en banc). 1 when Defendant Ortiz showed Sgt.

Selby his medical records without his permission and 2 conspired to lie to Plaintiff in an attempt to make him leave his medical appointment 3 without an examination. Dkt. No. 1 at 12. However,

these allegations, even if true, do not state an Eighth Amendment claim for deliberate indifference. With regard to the disclosure of his medical records, Plaintiff appears to be asserting a violation of the Health Insurance Portability and Accountability Act (HIPPA).

However, HIPPA does not provide a private right of action. *Webb v. Smart Document Sols., LLC*, 499 F.3d 1078, 1081 (9th Cir. 2007). A prisoner therefore has no private cause of action under HIPPA. *Seaton v. Mayberg*, 610 F.3d 530, 533 (9th Cir. 2010). Nor does a prisoner have a “constitutionally protected expectation of privacy in prison treatment records when the state has a legitimate interest in access to them.” *Id.* at 534.

Lastly, conspiracy is not itself a constitutional tort under 42 U.S.C. § 1983. *Lacey v. Maricopa County*, 693 F.3d 896, 935 (9th Cir. 2012) (en banc). As such, Plaintiff cannot state a separate Eighth Amendment claim against Defendants Ortiz and Selby based on a conspiracy.

Accordingly, leave to amend shall not be granted with respect to these claims because it is not factually possible for Plaintiff to cure these deficiencies. *Schmier v. United States Court of Appeals*, 279 F.3d 817, 824 (9th Cir. 2002).
CONCLUSION
For the foregoing reasons, the Court orders as follows:
1. This action shall proceed on the Eighth Amendment deliberate indifference to serious medical needs claims against Defendants Dr. Nguyen, CME Scott Langevine, Nurse Thorne, Nurse Ortiz, and Sgt.

Selby. All other claims are DISMISSED with prejudice for failure to state a claim.
2. The following defendants shall be served at Salinas Valley State Prison:
a. Dr. Nguyen
c. Nurse Thorne
d. Nurse Ortiz
e. Sgt. Selby
3. Service on the listed defendant(s) shall proceed under the California Department of Corrections and Rehabilitation’s (CDCR) e-service program for civil rights cases from prisoners in CDCR custody.

In accordance with the program, the clerk is directed to serve on CDCR via email the following documents: the operative complaint and any attachments thereto, Dkt. No. 1, this order of service, and a CDCR Report of E-Service Waiver form. The clerk also shall serve a copy of this order on the plaintiff. No later than 40 days after service of this order via email on CDCR, CDCR shall provide the court a completed CDCR Report of E-Service Waiver advising the court which defendant(s) listed in this order will be waiving service of process without the need for service by the United States Marshal Service (USMS) and which defendant(s) decline to waive service or could not be reached.

CDCR also shall provide a copy of the CDCR Report of E-Service Waiver to the California Attorney General’s Office which, within 16 days, shall file with the court a waiver of service of process for the defendant(s) who are waiving service. Upon receipt of the CDCR Report of E-Service Waiver, the clerk shall prepare for each defendant who has not waived service according to the CDCR Report of E-Service Waiver a USM-205 Form.

The clerk shall provide to the USMS the completed USM-205 21 forms and copies of this order, the summons and the operative complaint for service upon 22 each defendant who has not waived service. The clerk also shall provide to the USMS a 23 copy of the CDCR Report of E-Service Waiver. 24 3. No later than ninety-one (91) days from the date this order is filed, 25 Defendants shall file a motion for summary judgment or other dispositive motion with 26 respect to the claims in the complaint found to be cognizable above.

1 factual documentation and shall conform in all respects to Rule 56 of the Federal Rules of 2 Civil Procedure. Defendants are advised that summary judgment cannot be granted, nor 3 qualified immunity found, if material facts are in dispute. If any Defendant is of the 4 opinion that this case cannot be resolved by summary judgment, he shall so inform the 5 Court prior to the date the summary judgment motion is due.

6 b. In the event Defendants file a motion for summary judgment, the 7 Ninth Circuit has held that Plaintiff must be concurrently provided the appropriate 8 warnings under *Rand v. Rowland*, 154 F.3d 952, 963 (9th Cir. 1998) (en banc). See 9 *Woods v. Carey*, 684 F.3d 934, 940 (9th Cir. 2012). 10 4. Plaintiff's opposition to the dispositive motion shall be filed with the Court 11 and served on Defendants no later than twenty-eight (28) days from the date Defendants' 12 motion is filed.

13 Plaintiff is also advised to read Rule 56 of the Federal Rules of Civil Procedure and 14 *Celotex Corp. v. Catrett*, 47 U.S. 317 (1986) (holding party opposing summary judgment 15 must come forward with evidence showing triable issues of material fact on every essential 16 element of his claim). Plaintiff is cautioned that failure to file an opposition to 17 Defendants' motion for summary judgment may be deemed to be a consent by Plaintiff to 18 the granting of the motion, and granting of judgment against Plaintiff without a trial.

See 19 *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (per curiam); *Brydges v. Lewis*, 18 20 F.3d 651, 653 (9th Cir. 1994). 21 5. Defendants shall file a reply brief no later than fourteen (14) days after 22 Plaintiff's opposition is filed. 23 6.

The motion shall be deemed submitted as of the date the reply brief is due. 24 No hearing will be held on the motion unless the Court so orders at a later date. 25 7. All communications by the Plaintiff with the Court must be served on 26 Defendants, or Defendants' counsel once counsel has been designated, by mailing a true 1 8. Discovery may be taken in accordance with the Federal Rules of Civil 2 || Procedure.

No further court order under Federal Rule of Civil Procedure 30(a)(2) or Local 3 || Rule 16-1 is required before the parties may conduct discovery. 4 9. It is Plaintiff's responsibility to prosecute this case. Plaintiff must keep the 5 || court informed of any change of address and must comply with the court's orders in a 6 || timely fashion. Failure to do so may result in the dismissal of this action for failure to 7 || prosecute pursuant to Federal Rule of Civil Procedure 41(b).

8 10. Extensions of time must be filed no later than the deadline sought to be g || extended and
must be accompanied by a showing of good cause. 10 IT IS SO ORDERED. 11 || Dated: — July
23, 2025 tits / Whaen BETH LABSON FREEMAN United States District Judge 23 15 16 17 Oo Z
18 19 20 21 22 23 24 25 Order of Partial Dism & Service PRO-
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