

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF  
NEW YORK

David Keith v. Carlos Romain

Keith v. Romain · No. 5:25-CV-758 · Decided January 21, 2026

SUMMARY

A Report-Recommendation and Order in a pro se civil rights action brought by David Keith against Carlos Romain in the Northern District of New York. The magistrate judge grants Keith's application to proceed in forma pauperis and recommends dismissal without prejudice and with leave to amend of his Fourth Amendment seizure, First Amendment assembly, and potential municipal-liability claims. The court concludes that the complaint does not adequately plead a seizure, First Amendment violation, or Monell claim.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                  |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Northern District of New York                                                                                                                                                                                                                                               |
| WRITING FOR THE COURT | Paul J. Evangelista                                                                                                                                                                                                                                                                                              |
| JURISDICTION          | United States District Court for the Northern District of New York                                                                                                                                                                                                                                               |
| DECIDED               | January 21, 2026                                                                                                                                                                                                                                                                                                 |
| DOCKET                | 5:25-CV-758                                                                                                                                                                                                                                                                                                      |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                                            |
| PROCEDURAL POSTURE    | Report-recommendation and order on initial screening of a pro se complaint filed in forma pauperis under 28 U.S.C. §§ 1915 and 1915A.                                                                                                                                                                            |
| STANDARD OF REVIEW    | Initial screening under 28 U.S.C. §§ 1915(e)(2)(B) and 1915A; the court accepts well-pleaded factual allegations for purposes of review, construes pro se submissions liberally, and determines whether the complaint is frivolous, malicious, fails to state a claim, or seeks relief from an immune defendant. |
| PRECEDENTIAL VALUE    | nonprecedential                                                                                                                                                                                                                                                                                                  |
| PARTIES               | David Keith v. Carlos Romain                                                                                                                                                                                                                                                                                     |

TOPICS

- section 1983
- civil rights
- first amendment
- municipal liability
- pleadings

## PRACTICE AREAS

Civil rights

Constitutional law

Federal civil procedure

Municipal liability

Pro se litigation

## QUESTIONS PRESENTED

1. Whether the complaint adequately pleaded a Fourth Amendment claim based on an alleged threat to arrest Keith if he did not leave the area in front of Syracuse City Hall.
2. Whether the complaint adequately pleaded a First Amendment right-of-assembly claim based on the directive to leave the area in front of City Hall.
3. Whether the complaint adequately pleaded municipal liability under Monell against the City of Syracuse.
4. Whether Keith should be granted leave to amend his deficient pro se complaint.
5. Whether Keith qualified to proceed in forma pauperis.

## HOLDINGS

1. The complaint failed to state a Fourth Amendment unlawful-seizure claim because it did not allege sufficient facts showing that Keith was seized, and the alleged threat of arrest, without more, was insufficient on the allegations presented.
2. The complaint failed to state a First Amendment assembly claim because it did not provide enough facts to identify the relevant government-property forum, characterize the restriction, or permit application of the appropriate forum-based standard.
3. The complaint failed to state a Monell claim against the City of Syracuse because it did not allege that a municipal policy, custom, failure to train or supervise, or deliberate action by a policymaker caused a constitutional deprivation.
4. Keith should be granted leave to amend because the deficiencies in his Fourth Amendment, First Amendment, and potential Monell claims might be cured by more detailed pleading.
5. Keith qualified financially to proceed in forma pauperis, and the application was granted.

## KEY QUOTATIONS

*“the mere threat of an arrest, without more, does not give rise to a seizure under the Fourth Amendment.”* (at 7)

*“Municipalities may only be held liable when the municipality itself deprives an individual of a constitutional right; it ‘may not be held liable on a theory of respondeat superior.’”* (at 12-13)

*“A pro se complaint should not be dismissed without the Court granting leave to amend at least once when a liberal reading of the complaint gives any indication that a valid claim might be stated.”* (at 14)

## FACTUAL BACKGROUND

Keith alleged that on June 13, 2023, while speaking with Syracuse City Councilman Chol Majok in front of Syracuse City Hall, Sergeant Carlos Romain approached him and threatened to arrest him for trespassing if he

did not leave. Keith claimed violations of the Fourth Amendment and sought \$30,000 in damages and an order requiring Romain to receive constitutional training. The complaint did not provide sufficient details about the encounter, the precise location or forum, the substance of the conversation, or any municipal policy or practice.

## PROCEDURAL HISTORY

Keith commenced the action on June 13, 2025, and applied to proceed in forma pauperis. The magistrate judge granted in forma pauperis status but recommended dismissal of the complaint without prejudice and with leave to amend because the pleading did not adequately state Fourth Amendment seizure, First Amendment assembly, or municipal-liability claims. The recommendation was issued subject to fourteen days for objections under 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72.

## DISPOSITION

other

## REMAND INSTRUCTIONS

No remand was ordered. The magistrate judge recommended dismissal without prejudice and with leave to amend, with thirty days from the district judge's adoption order to file an amended complaint. Any amended complaint would be subject to renewed substantive-sufficiency screening under 28 U.S.C. § 1915(e)(2)(B).

## CASES CITED

- *Praileau v. Fischer*, 930 F. Supp. 2d 383, 394 (N.D.N.Y. 2013)
- *Kirkland v. Cablevision Systems*, 760 F.3d 223, 224 (2d Cir. 2014) (per curiam)
- *Triestman v. Federal Bureau of Prisons*, 470 F.3d 471, 475, 477 (2d Cir. 2006)
- *Sealed Plaintiff v. Sealed Defendant*, 537 F.3d 185, 191 (2d Cir. 2008)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)
- *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-56, 570 (2007)
- *Kastner v. Tri State Eye*, 2019 WL 6841952, at \*2 (S.D.N.Y. Dec. 13, 2019)
- *Ruotolo v. IRS*, 28 F.3d 6, 8 (2d Cir. 1994)
- *Flores v. Graphdex*, 189 F.R.D. 54, 55 (N.D.N.Y. 1999)
- *Gonzales v. Wing*, 167 F.R.D. 352, 355 (N.D.N.Y. 1996)
- *Salahuddin v. Cuomo*, 861 F.2d 40, 42 (2d Cir. 1988)
- *Clarke v. County of Broome*, 2012 WL 1005086, at \*6-7 (N.D.N.Y. Mar. 23, 2012)
- *Cerrone v. Brown*, 246 F.3d 194, 199 (2d Cir. 2001)
- *Dick v. Gainer*, 1998 WL 894649, at \*2 (7th Cir. 1998)
- *Britton v. Maloney*, 196 F.3d 24, 30 (1st Cir. 1999)
- *Saenz v. Lucas*, 2008 WL 2735867, at \*3 (S.D.N.Y. July 9, 2008)
- *United States v. Glover*, 957 F.2d 1004, 1008 (2d Cir. 1992)
- *Gardiner v. Incorporated Village of Endicott*, 50 F.3d 151, 155 (2d Cir. 1995)

- Bodek v. Bunis, 2007 WL 1526423, at \*9 (W.D.N.Y. May 23, 2007)
- Florida v. Bostick, 501 U.S. 429, 437 (1991)
- United States v. Lee, 916 F.2d 814, 819 (2d Cir. 1990)
- Foote v. Board of Education of Whitehall Central School District, 2024 WL 3376651, at \*17 (N.D.N.Y. July 11, 2024)
- Johnson v. Perry, 859 F.3d 156, 171 (2d Cir. 2017)
- Frierson v. Reinisch, 2021 WL 4405911, at \*3-4 (N.D.N.Y. Sept. 27, 2021)
- Coates v. City of Cincinnati, 402 U.S. 611, 615 (1971)
- American Freedom Defense Initiative v. Metropolitan Transportation Authority, 880 F. Supp. 2d 456, 469 (S.D.N.Y. 2012)
- R.O. ex rel. Ochshorn v. Ithaca City School District, 645 F.3d 533, 539 (2d Cir. 2011)
- Monell v. Department of Social Services, 436 U.S. 658, 690-91 (1978)
- Batista v. Rodriguez, 702 F.2d 393, 397 (2d Cir. 1983)
- Dougal v. Lewicki, 2023 WL 6430586, at \*10 (N.D.N.Y. Oct. 3, 2023)
- Jones v. Town of East Haven, 691 F.3d 72, 80 (2d Cir. 2012)
- Jeffes v. Barnes, 208 F.3d 49, 56 (2d Cir. 2000)
- Dorsett-Felicelli, Inc. v. County of Clinton, 371 F. Supp. 2d 183, 194 (N.D.N.Y. 2005)
- Santos v. New York City, 847 F. Supp. 2d 573, 576 (S.D.N.Y. 2012)
- Coleman v. County of Suffolk, 685 F. App'x 69, 72 (2d Cir. 2017)
- Fleming v. City of New York, 2023 WL 1861223, at \*1 (S.D.N.Y. Feb. 9, 2023)
- Lucente v. County of Suffolk, 980 F.3d 284, 297-98 (2d Cir. 2020)
- Mulqueen v. Herkimer County Child Protective Services, 2023 WL 4931679, at \*6 (N.D.N.Y. Aug. 2, 2023)
- Cowan v. City of Mount Vernon, 95 F. Supp. 3d 624, 636 (S.D.N.Y. 2015)
- Board of County Commissioners v. Brown, 520 U.S. 397, 403 (1997)
- Romano v. Lisson, 711 F. App'x 17, 19 (2d Cir. 2017)
- Nielsen v. Rabin, 746 F.3d 58, 62 (2d Cir. 2014)
- Edwards v. Penix, 388 F. Supp. 3d 135, 144-45 (N.D.N.Y. 2019)
- Cuoco v. Moritsugu, 222 F.3d 99, 112 (2d Cir. 2000)
- Cinotti v. Adelman, 709 F. App'x 39, 40 (2d Cir. 2017)
- Sira v. Morton, 380 F.3d 57, 67 (2d Cir. 2004)
- Roldan v. Racette, 984 F.2d 85, 89 (2d Cir. 1993)
- Small v. Secretary of Health and Human Services, 892 F.2d 15 (2d Cir. 1989)