

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
ALABAMA

Walter J. Avery v. Dr. Borrowitz, et al.

Avery · No. 2:25-CV-919-WKW · Decided December 10, 2025

SUMMARY

The court screened Walter J. Avery’s pro se 42 U.S.C. § 1983 complaint alleging inadequate medical care and improper housing assignments while incarcerated in Alabama. The court concluded that the complaint failed to allege specific acts or omissions connecting each defendant to the asserted constitutional violations. The court granted Avery leave to amend by January 7, 2026, and warned that failure to comply could result in dismissal.

CASE DETAILS

COURT	United States District Court for the Middle District of Alabama
WRITING FOR THE COURT	W. Keith Watkins
JURISDICTION	United States District Court for the Middle District of Alabama
DECIDED	December 10, 2025
DOCKET	2:25-CV-919-WKW
DISPOSITION	other
PROCEDURAL POSTURE	Pro se prisoner brought a 42 U.S.C. § 1983 action against medical professionals and correctional officers. The district court screened the complaint under 28 U.S.C. § 1915A and found pleading deficiencies, but allowed Plaintiff to file an amended complaint.
STANDARD OF REVIEW	Under 28 U.S.C. § 1915A, the court screens the complaint sua sponte and must dismiss it if it is frivolous, fails to state a claim, or seeks monetary relief from an immune defendant. The failure-to-state-a-claim inquiry applies the same plausibility standard governing Federal Rule of Civil Procedure 12(b)(6), accepting well-pleaded factual allegations as true and asking whether they plausibly show entitlement to relief.
PRECEDENTIAL VALUE	Unpublished district court memorandum opinion and order; persuasive but not precedential outside the case.

TOPICS

pleadings

civil procedure

section 1983

prisoners rights

health law

PRACTICE AREAS

civil procedure

constitutional law

civil rights

prisoner litigation

health law

QUESTIONS PRESENTED

1. Whether the complaint stated a plausible 42 U.S.C. § 1983 claim for deliberate indifference to serious medical needs against the named medical defendants.
2. Whether the complaint adequately alleged each defendant's personal involvement through specific acts or omissions sufficient to provide fair notice of the claims.
3. Whether a pro se plaintiff should be given an opportunity to amend before dismissal when a more carefully drafted complaint might state a claim.

HOLDINGS

1. The complaint failed to state a claim for deliberate indifference to serious medical needs because it did not allege facts showing how each medical defendant was deliberately indifferent to Plaintiff's medical needs.
2. The complaint did not satisfy the plausibility and fair-notice requirements because it relied on collective allegations and failed to specify the actions or omissions of each defendant.
3. The court was required to give Plaintiff, a pro se litigant, at least one opportunity to amend because a more carefully drafted complaint might state a claim.

KEY QUOTATIONS

"A complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" (Standard of Review, § I)

"To establish liability on a deliberate indifference claim, a plaintiff must demonstrate that: (1) the injured party suffered a deprivation that was objectively 'sufficiently serious,' and (2) the defendant acted with 'subjective recklessness as used in the criminal law.'" (Discussion, § III)

"The amended complaint will replace the original complaint, and this action will proceed only with Defendants named and the claims presented in the amended complaint." (Conclusion, § IV)

FACTUAL BACKGROUND

Walter J. Avery, an Alabama inmate, alleged that medical personnel at several correctional facilities provided inadequate care for painful, inflamed, and bleeding hemorrhoids over more than two years. He alleged inconsistent access to prescribed medication, a rescheduled outside medical procedure, and continuing concern about bleeding and swelling. He named six medical defendants but generally attributed the alleged conduct collectively to them, without specifying each defendant's acts or omissions. He also alleged that two correctional officers failed to honor his bottom-bunk medical designation.

PROCEDURAL HISTORY

Plaintiff signed a § 1983 complaint on November 9, 2025, and it was docketed on November 20, 2025. The court conducted mandatory screening under 28 U.S.C. § 1915A and concluded that the complaint did not adequately connect each defendant to specific acts or omissions constituting deliberate indifference. Rather than dismissing immediately, the court ordered Plaintiff to file an amended complaint by January 7, 2026, and warned that failure to comply could result in dismissal for failure to prosecute and obey a court order.

DISPOSITION

other

CASES CITED

- Williams v. McNeil, 557 F.3d 1287, 1290 n.2 (11th Cir. 2009)
- Jeffries v. United States, 748 F.3d 1310, 1314 (11th Cir. 2014)
- Douglas v. Yates, 535 F.3d 1316, 1320–22 (11th Cir. 2008)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555, 557, 570 (2007)
- Bilal v. Geo Care, LLC, 981 F.3d 903, 911 (11th Cir. 2020)
- Erickson v. Pardus, 551 U.S. 89, 94 (2007)
- GJR Invs. v. Escambia Cnty., 132 F.3d 1359, 1369 (11th Cir. 1998)
- Wade v. McDade, 106 F.4th 1251, 1255, 1262 (11th Cir. 2024) (en banc)
- Wingo v. WellStar Health Sys., Inc., ___ F.4th ___, 2025 WL 3442596, at *4 (11th Cir. Dec. 1, 2025)
- Goebert v. Lee County, 510 F.3d 1312, 1326 (11th Cir. 2007)
- Carswell v. Bay County, 854 F.2d 454, 456–57 (11th Cir. 1988)
- Hall v. Merola, 67 F.4th 1282, 1295 (11th Cir. 2023)