

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON

**David P. Martin v. ODS Community Dental, Moda Health Plan, Inc.;
CareOregon/Moda Medicaid; Skyline Oral Surgery; Oregon Health
Authority; and Does 1–50**

Martin · No. 3:26-cv-00298-AB · Decided April 24, 2026

SUMMARY

The United States District Court for the District of Oregon dismisses David P. Martin’s Second Amended Complaint arising from a dental emergency. The court concludes that the complaint remains too lengthy and incomprehensible under Federal Rule of Civil Procedure 8, asserts claims unavailable against private actors or under criminal statutes, and fails to cure deficiencies identified in prior orders; dismissal is without prejudice but without further leave to amend.

CASE DETAILS

COURT	United States District Court for the District of Oregon
WRITING FOR THE COURT	Amy M. Baggio
JURISDICTION	United States District Court for the District of Oregon
DECIDED	April 24, 2026
DOCKET	3:26-cv-00298-AB
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff, proceeding pro se and in forma pauperis, filed a Second Amended Complaint after the court previously dismissed an amended complaint with leave to amend. The district court screened the Second Amended Complaint under 28 U.S.C. § 1915(e) and dismissed it without prejudice and without further leave to amend.
STANDARD OF REVIEW	De novo screening of an in forma pauperis complaint under 28 U.S.C. § 1915(e)(2), including whether the complaint is frivolous, fails to state a claim, or seeks relief from an immune defendant; pleadings are construed liberally because Plaintiff is self-represented, but must comply with the Federal Rules of Civil Procedure.
PRECEDENTIAL VALUE	district court opinion; precedential status not identified in the supplied metadata

PARTIES

David P. Martin v. ODS Community Dental, Moda Health Plan, Inc., CareOregon/Moda Medicaid, Skyline Oral Surgery, Oregon Health Authority, Does 1–50

TOPICS

pleadings

civil procedure

motions to dismiss

section 1983

state action

PRACTICE AREAS

civil procedure

civil rights

constitutional law

health law

QUESTIONS PRESENTED

1. Whether the Second Amended Complaint complied with Federal Rule of Civil Procedure 8.
2. Whether the Second Amended Complaint stated claims subject to dismissal under 28 U.S.C. § 1915(e)(2)(B).
3. Whether Plaintiff could assert constitutional claims against private actors without state action.
4. Whether private parties could bring civil claims based on criminal statutes.
5. Whether the Oregon Health Authority was a person subject to suit under 42 U.S.C. § 1983.
6. Whether further leave to amend should be granted after Plaintiff failed to cure deficiencies identified in prior orders.

HOLDINGS

1. The Second Amended Complaint failed to comply with Rule 8 because it was still too lengthy, incomprehensible, and filled with unrelated material, making it impossible to determine the essence of Plaintiff's claims.
2. A complaint filed in forma pauperis may be dismissed before service when it is frivolous, fails to state a claim, or seeks monetary relief from an immune defendant.
3. A plaintiff cannot maintain a constitutional claim against a private actor absent state action.
4. Private parties may not enforce criminal statutes through a civil lawsuit when the statutes do not create a private civil cause of action.
5. The Oregon Health Authority may not be sued under 42 U.S.C. § 1983 because states and governmental entities that are arms of the state are not persons for purposes of § 1983.
6. Further leave to amend was properly denied because Plaintiff had already received instructions and an opportunity to cure the deficiencies, yet the Second Amended Complaint remained subject to dismissal and additional amendment would be futile.

FACTUAL BACKGROUND

David P. Martin brought claims arising from a dental emergency against private dental and health-plan defendants and the Oregon Health Authority. His Second Amended Complaint remained lengthy and included numerous unrelated documents and materials, including motions, Latin translations, evaluations of other court opinions, a medical-emergency-law lesson plan, and a shamanic forensic analysis. The complaint also asserted constitutional claims against private actors, claims under criminal statutes, and a 42 U.S.C. § 1983 claim against the Oregon Health Authority.

PROCEDURAL HISTORY

The court granted Plaintiff leave to proceed in forma pauperis and previously dismissed his 97-page Amended Complaint with instructions to cure pleading deficiencies. Plaintiff filed a Second Amended Complaint, which the court found remained lengthy, incomprehensible, and noncompliant with Rule 8, while also reasserting claims the court had already explained were legally deficient. The court dismissed the Second Amended Complaint without prejudice under Rule 8, 28 U.S.C. § 1915(e), and Rule 41(b), but denied further leave to amend because additional amendment would be futile.

DISPOSITION

dismissed

CASES CITED

- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007)
- Conley v. Gibson, 355 U.S. 41, 47 (1957)
- Ghazali v. Moran, 46 F.3d 52, 54 (9th Cir. 1995)
- Neitzke v. Williams, 490 U.S. 319, 324–25 (1989)
- Hebbe v. Pliler, 627 F.3d 338, 342 (9th Cir. 2010)
- Erickson v. Pardus, 551 U.S. 89, 94 (2007) (per curiam)
- Bechler v. Macaluso, No. CV 08-3059-CL, 2008 WL 4145881, at *2 (D. Or. Sept. 8, 2008)
- McHenry v. Renne, 84 F.3d 1172, 1179 (9th Cir. 1996)
- Roberts v. AT&T Mobility LLC, 877 F.3d 833, 837 (9th Cir. 2017)
- Allen v. Gold Country Casino, 464 F.3d 1044, 1048 (9th Cir. 2006)
- Cornel v. Hawaii, 37 F.4th 527, 531 (9th Cir. 2022)
- Doe v. Lawrence Livermore Nat’l Lab’y, 131 F.3d 836, 839 (9th Cir. 1997)
- Lucas v. Dep’t of Corr., 66 F.3d 245, 248 (9th Cir. 1995)
- Steckman v. Hart Brewing, Inc., 143 F.3d 1293, 1298 (9th Cir. 1998)
- Yentz v. Nat’l Credit Adjusters, LLC, No. 3:20-CV-01364-AC, 2021 WL 1277961, at *2 (D. Or. Feb. 15, 2021)
- Webb v. Dep’t of Hum. Servs., No. 6:23-CV-00647-AA, 2023 WL 5350651, at *2 (D. Or. Aug. 21, 2023)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON DAVID P. MARTIN, Case No. 3:26-cv-00298-AB Plaintiff, OPINION & ORDER v. ODS COMMUNITY DENTAL, MODA HEALTH PLAN, INC.; CAREOREGON/MODA MEDICAID; SKYLINE ORAL SURGERY; OREGON HEALTH AUTHORITY; and DOES 1–50, Defendants. BAGGIO, District Judge: Self-represented Plaintiff David P. Martin brings this case arising out of a dental emergency against Defendants ODS Community Dental, Moda Health Plan, Inc., CareOregon/Moda Medicaid, Skyline Oral Surgery, and the Oregon Health Authority.

On March 12, 2026, the Court granted Plaintiff’s application to proceed in forma pauperis (“IFP”) but dismissed Plaintiff’s 97-page Amended Complaint with leave to amend and with instructions to cure various deficiencies in his prior pleading. See Opinion & Order (“O&O”), ECF No. 21. Plaintiff filed his Second Amended Complaint on April 7, 2026.¹ See Second Am.

Compl. (“SAC”), ECF No. 35. For the reasons below, the Court dismisses Plaintiff’s Second Amended Complaint under 28 U.S.C. § 1915(e) without prejudice and without further leave to amend. STANDARDS I. Federal Rule of Civil Procedure 8 To comply with Rule 8, a pleading must contain “a short and plain statement of the claim showing that the pleader is entitled to relief,” and each allegation “must be simple, concise, and direct.” Fed.

R. Civ. P. 8(a)(2), (d)(1). In other words, Rule 8 requires that the pleading “give the defendant fair notice of what the... claim is and the grounds upon which it rests.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)). “Although we construe pleadings liberally in their favor, pro se litigants are bound by the rules of procedure.” *Ghazali v. Moran*, 46 F.3d 52, 54 (9th Cir.

1995). II. 28 U.S.C. § 1915 A complaint filed IFP may be dismissed at any time, including before service of process, if the court determines that: (B) the action or appeal– (i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2); see also *Neitzke v. Williams*, 490 U.S. 319, 324 (1989) (sua sponte dismissals under section 1915 “spare prospective defendants the inconvenience and expense of answering” complaints that are “frivolous, malicious, or repetitive”).

A complaint is frivolous “where it lacks an arguable basis either in law or in fact.” *Id.* at 325 (“[F]rivolous, when applied 1 All citations to the record refer to the PDF page number in the CM/ECF filing. to a complaint, embraces not only the inarguable legal conclusion, but also the fanciful factual allegation.”).

As the Ninth Circuit has instructed, however, courts must “continue to construe pro se filings liberally....” *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010). A complaint filed by a self-

represented litigant “‘must be held to less stringent standards than formal pleadings drafted by lawyers.’” *Id.* (quoting *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (*per curiam*)).

A self- represented litigant will be given leave to amend his or her complaint unless it is clear that the deficiencies of the complaint cannot be cured by amendment. *Lucas v. Dep’t of Corr.*, 66 F.3d 245, 248 (9th Cir. 1995). DISCUSSION The Court dismisses Plaintiff’s Second Amended Complaint for Plaintiff’s continued failure to comply with the Court’s instructions in its prior orders.

First, Plaintiff’s Second Amended Complaint fails to comply with Rule 8 despite the Court’s prior instructions. While shorter than his previous version, Plaintiff’s operative complaint is still lengthy and contains a large amount of information that has no clear connection to Plaintiff’s causes of action.

For example, Plaintiff attaches many documents to his Second Amended Complaint, including: a prefatory letter to the Court, SAC 7; various motions and translations of Latin phrases, SAC 7–9, 28–29; Plaintiff’s evaluation of the Court’s opinions in other matters, SAC 10–11; a document that appears to be a lesson plan for a course titled “Medical Emergency Law[,]” SAC 12–16; and a document titled, “The Two Robes—a Shamanic Forensic Analysis[,]” SAC 16–20.

Because of the volume of unrelated materials that Plaintiff intersperses throughout his Second Amended Complaint, the Court finds it impossible to read. See *Bechler v. Macaluso*, No. CV 08-3059-CL, 2008 WL 4145881, at *2 (D. Or. Sept. 8, 2008) (“[The plaintiff’s complaint] is extremely difficult for the court, in view of the length, argument, immaterial material and repetition, to determine the essence of plaintiffs’ claims for relief... as presently drafted, [the complaint] does not comply with Rules 8 and 9.”).

In sum, the Court finds that Plaintiff’s Second Amended Complaint—like his prior complaint—is too lengthy and incomprehensible. Navigating through it further would impose an “unfair burden[] on litigants and judges,” see *McHenry v. Renne*, 84 F.3d 1172, 1179 (9th Cir. 1996), and must be dismissed under Rule 8.

Second, Plaintiff attempts to bring claims which the Court expressly explained fail as a matter of law. See 28 U.S.C. § 1915(e)(2)(B)(ii) (allowing the court to dismiss a complaint where “the action... fails to state a claim on which relief may be granted....”).

For example, Plaintiff renews his constitutional claims against private actors. See, e.g., SAC 2 (Plaintiff bringing a “First Amendment Retaliation” claim against “Amy Doe”). But, as the Court stated in its prior Opinion & Order, a plaintiff cannot do so.² See O&O 5; see also *Roberts v. AT&T Mobility LLC*, 877 F.3d 833, 837 (9th Cir. 2017) (holding a “threshold requirement of any constitutional claim is the presence of state action”).

Similarly, the Court previously explained that private parties cannot enforce criminal statutes through a civil lawsuit. O&O 5; see also *Allen v. Gold Country Casino*, 464 F.3d 1044, 1048 (9th Cir. 2006) (“[C]riminal statutes... do not give rise to civil liability.”). But Plaintiff ignores the Court’s instructions and continues to bring causes of action under criminal statutes in his Second Amended Complaint, including statutes for witness retaliation and tampering under 18 U.S.C. § 1512, wire fraud under 18 U.S.C. §§ 1343 and 1347, and stalking under Or.

Rev. Stat. § 163.732. SAC 2. 2 Additionally, Plaintiff may not bring a § 1983 claim against Defendant Oregon Health Authority because states and governmental entities are not persons for purposes of § 1983. See *Cornel v. Hawaii*, 37 F.4th 527, 531 (9th Cir. 2022) (“States or governmental entities that are considered ‘arms of the State’ for Eleventh Amendment purposes are not ‘persons’ under § 1983.” (quoting *Doe v. Lawrence Livermore Nat’l Lab’y*, 131 F.3d 836, 839 (9th Cir.

1997))). Taking into account the continued pleading deficiencies described above, the Court finds it appropriate to dismiss Plaintiff’s Second Amended Complaint without prejudice and without leave to amend. See Fed. R. Civ. P. 41(b) (providing for dismissal “[i]f the plaintiff fails to prosecute or to comply with these rules or a court order”). “Although there is a general rule that parties are allowed to amend their pleadings, it does not extend to cases in which any amendment would be an exercise in futility... or where the amended complaint would also be subject to dismissal....” *Steckman v. Hart Brewing, Inc.*, 143 F.3d 1293, 1298 (9th Cir.

1998). “A proposed amendment is futile if the plaintiff could not allege a set of facts that would constitute a claim or defense.” *Yentz v. Nat’l Credit Adjusters, LLC*, No. 3:20-CV-01364-AC, 2021 WL 1277961, at *2 (D. Or. Feb. 15, 2021), report and recommendation adopted, 2021 WL 1270457 (D. Or. Apr. 6, 2021).

Here, the Court informed Plaintiff of his pleading deficiencies and provided instructions on how to cure them. See O&O; March 20, 2026 Order (allowing additional amendment in light of possible missing pages), ECF No. 29. Plaintiff’s Second Amended Complaint fails to comply with those instructions. See *Webb v. Dep’t of Hum. Servs.*, No. 6:23-CV-00647-AA, 2023 WL 5350651, at *2 (D.

Or. Aug. 21, 2023) (“The Amended Complaint does little to fix the problems of the original Complaint.... The Court has previously given Plaintiff leave to amend with instructions on how to state a claim. The Court concludes that it would be futile to allow further leave to amend and so dismissal shall be without prejudice but without leave to amend.”). Additionally, instead of curing his pleading deficiencies, Plaintiff filed many motions and notices that are unrelated to refiling an operative complaint.

See, e.g., Emergency Motion to Compel Compliance, ECF No. 25; Omnibus Stalking Protective Order, ECF No. 31; Qui Tam Transformation Package, ECF No. 36. The Court therefore finds that further opportunity to amend would be futile and dismisses Plaintiffs Second Amended Complaint without prejudice and without further leave to amend. CONCLUSION The Court DISMISSES Plaintiff's Second Amended Complaint [35] without prejudice.

Dismissal is without further leave to amend. IT IS SO ORDERED. DATED this 24th day of April, 2026. AMY M. BAGGIO United States District Judge 6 — OPINION & ORDER