

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO, EASTERN DIVISION

Sylvester Reed v. Northeast Ohio Correctional Center et al.

Reed · No. 4:25-CV-01109 · Decided March 27, 2026

SUMMARY

The United States District Court for the Northern District of Ohio granted CoreCivic's Rule 12(b)(6) motion to dismiss claims arising from alleged denial of post-surgery medical care at Northeast Ohio Correctional Center. The court held that the plaintiff failed to state viable claims under 42 U.S.C. § 1983, Bivens, or the ADA, and dismissed the claim for injunctive relief as moot. Claims against some unserved defendants were dismissed without prejudice, while other claims were dismissed with prejudice for the reasons stated in the opinion.

CASE DETAILS

COURT	United States District Court for the Northern District of Ohio, Eastern Division
WRITING FOR THE COURT	Benita Y. Pearson
JURISDICTION	United States District Court for the Northern District of Ohio, Eastern Division
DECIDED	March 27, 2026
DOCKET	4:25-CV-01109
DISPOSITION	dismissed
PROCEDURAL POSTURE	Pro se federal inmate sued CoreCivic, Northeast Ohio Correctional Center, and federal and private correctional personnel under 42 U.S.C. § 1983, Bivens, and the Americans with Disabilities Act. CoreCivic moved under Federal Rule of Civil Procedure 12(b)(6), and the court resolved that motion and a motion for appointment of counsel.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true but disregards legal conclusions and determines whether the complaint states a facially plausible claim for relief. Pro se pleadings are liberally construed, but the court may not supply missing allegations or invent claims.
PRECEDENTIAL VALUE	unpublished district court memorandum opinion; persuasive value only

TOPICS

motions to dismiss

service of process

section 1983

ada / disability

civil procedure

PRACTICE AREAS

civil rights

prisoner litigation

constitutional law

Americans with Disabilities Act

civil procedure

QUESTIONS PRESENTED

1. Whether Reed stated a claim under 42 U.S.C. § 1983 against CoreCivic for alleged inadequate medical care at a private prison.
2. Whether Reed stated a Bivens claim for damages against CoreCivic or the United States Marshals Service.
3. Whether Reed adequately pleaded an Americans with Disabilities Act claim against CoreCivic.
4. Whether Reed's requests for declaratory or injunctive relief became moot after his transfer from NEOCC.
5. Whether claims against unserved defendants should be dismissed under Federal Rule of Civil Procedure 4(m).
6. Whether Northeast Ohio Correctional Center is a juridical entity capable of being sued.

HOLDINGS

1. The complaint failed to state a § 1983 claim against CoreCivic because it alleged no facts showing that CoreCivic acted under color of state law or that a CoreCivic policy or custom caused a constitutional violation.
2. Reed could not pursue a Bivens damages claim against CoreCivic, its private-prison personnel, or the United States Marshals Service.
3. The complaint failed to state an ADA claim because it did not identify a specific ADA provision or plead facts showing a qualifying disability, eligibility for a program or service, exclusion or denial of benefits, or discrimination because of disability.
4. Reed's requests for declaratory and injunctive relief concerning NEOCC and its staff were moot because he had been transferred to another correctional institution.
5. The claims against Hightower, Peter Elliot, and Shane Marchal were dismissed without prejudice because Reed failed to complete service within the time required by Federal Rule of Civil Procedure 4(m).
6. NEOCC is a non-juridical facility lacking a separate existence and is not capable of being sued.

KEY QUOTATIONS

“only a complaint that states a plausible claim for relief survives a motion to dismiss.” (Section III.B)

“Plaintiff cannot assert a Bivens claim for damages against Defendant CoreCivic’s employees for conduct that falls within the scope of traditional state tort law, an alternative and extant process for protecting any

constitutional interests at stake.” (Section IV.B)

“A federal inmate’s claim for declaratory and injunctive relief against a prison or prison staff becomes moot once the prisoner is transferred to a different correctional institution.” (Section IV.D)

FACTUAL BACKGROUND

Reed was detained before trial and underwent back and elbow surgery in Rochester, New York before being transferred to the privately operated Northeast Ohio Correctional Center for recovery. He alleged that NEOCC staff denied follow-up appointments, physical therapy, and his routine medications for more than three weeks, resulting in inadequate post-surgical care. He later pleaded guilty to federal bank-robbery charges, was sentenced to 126 months, and was transferred from NEOCC to other federal facilities, ultimately residing at FMC Springfield.

PROCEDURAL HISTORY

Reed filed suit on May 28, 2025. Despite court-ordered extensions and new summonses, only CoreCivic was served. CoreCivic moved to dismiss, and Reed did not respond. The court granted dismissal under Rule 12(b)(6), dismissed the claims against CoreCivic and NEOCC with prejudice, dismissed the claims against the United States Marshals Service and USM Patizzine with prejudice, dismissed the claims against Hightower, Elliot, and Marchal without prejudice for failure to complete service under Rule 4(m), dismissed injunctive relief as moot, and denied appointment of counsel as moot.

DISPOSITION

dismissed

CASES CITED

- Foster v. Northeast Ohio Correctional Center, Case No. 4:25-CV-295, 2025 WL 2299331, at *3 (N.D. Ohio Aug. 8, 2025)
- Glaser v. Smith, No. 4:22-CV-1019, 2023 WL 4052470, at *8 n.5 (N.D. Ohio June 16, 2023)
- United States v. Reed, No. 6-21-CR-06057 (W.D.N.Y. Apr. 15, 2021)
- Demsey v. R.J. Reynolds Tobacco Co., No. 1:04CV1942, 2005 WL 1917934, at *2 (N.D. Ohio Aug. 10, 2005)
- Cacevic v. City of Hazel Park, 226 F.3d 483, 492 (6th Cir. 2000)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 546, 555 (2007)
- Conley v. Gibson, 355 U.S. 41, 47 (1957)
- Ashcroft v. Iqbal, 556 U.S. 662, 678-679 (2009)
- Hensley Manufacturing v. ProPride, Inc., 579 F.3d 603, 609 (6th Cir. 2009)
- Haines v. Kerner, 404 U.S. 519, 520 (1972)
- Hahn v. Star Bank, 190 F.3d 708, 715 (6th Cir. 1999)
- Jourdan v. Jabe, 951 F.2d 108, 110 (6th Cir. 1991)

- *Marbury v. Madison*, 1 Cranch 137, 163 (1803)
- *Pilgrim v. Littlefield*, 92 F.3d 413, 416 (6th Cir. 1996)
- *Martin v. Overton*, 391 F.3d 710, 714 (6th Cir. 2004)
- *Wells v. Brown*, 891 F.2d 591, 594 (6th Cir. 1989)
- *Neitzke v. Williams*, 490 U.S. 319, 327 (1989)
- *Papasan v. Allain*, 478 U.S. 265, 286 (1986)
- *Bouggess v. Mattingly*, 482 F.3d 886, 887 (6th Cir. 2007)
- *Gregory v. Shelby County, Tennessee*, 220 F.3d 433, 441 (6th Cir. 2000)
- *Flagg Brothers v. Brooks*, 436 U.S. 149, 155 (1978)
- *West v. Atkins*, 487 U.S. 42, 49 (1988)
- *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 937 (1982)
- *Bishawi v. Northeast Ohio Correctional Center*, 628 F. App'x 339, 342 (6th Cir. 2014)
- *Ayon v. Northeast Ohio Correctional Center*, 478 F. App'x 999, 1000 (6th Cir. 2012)
- *Hyman v. Lewis*, 27 F.4th 1233, 1237 (6th Cir. 2022)
- *Monell v. Department of Social Services of City of New York*, 436 U.S. 658 (1978)
- *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388, 397 (1971)
- *Wilkie v. Robbins*, 551 U.S. 537, 550 (2007)
- *Bush v. Lucas*, 462 U.S. 367, 378 (1983)
- *Minnecci v. Pollard*, 565 U.S. 118, 125-126 (2012)
- *Correctional Services Corp. v. Malesko*, 534 U.S. 61, 70 (2001)
- *Ziglar v. Abbasi*, 582 U.S. 120, 140 (2017)
- *F.D.I.C. v. Meyer*, 510 U.S. 471, 483 (1994)
- *Tennessee v. Lane*, 541 U.S. 509, 516-517 (2004)
- *Roell v. Hamilton County*, 870 F.3d 471, 488 (6th Cir. 2017)
- *Anderson v. City of Blue Ash*, 798 F.3d 338, 357 (6th Cir. 2015)
- *Turner v. City of Englewood*, 195 F. App'x 346, 353 (6th Cir. 2006)
- *Collazo v. Correctional Corporation of America*, No. 4:11CV1424, 2011 WL 6012425, at *3 (N.D. Ohio Nov. 30, 2011)
- *Foster v. Northeast Ohio Correctional Center*, No. 4:25-CV-295, 2025 WL 2917112, at *4 (N.D. Ohio Oct. 14, 2025)
- *Anderson v. South Central Correctional Facility*, No. 1:14-21, 2016 WL 54921 (M.D. Tenn. Jan. 5, 2016)
- *Tester v. Hurm*, No. 09-318, 2011 WL 6056407, at *3 (E.D. Ky. Dec. 6, 2011)
- *Edison v. Douberly*, 604 F.3d 1307, 1310 (11th Cir. 2010)
- *Henderson v. Martin*, 73 F. App'x 115, 117 (6th Cir. 2003)
- *Kensu v. Haigh*, 87 F.3d 172, 175 (6th Cir. 1996)
- *Edelstein v. Flottman*, No. 24-3156, 2025 WL 609487, at *3 (6th Cir. Jan. 10, 2025)

OPINION

PEARSON, J. UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO
EASTERN DIVISION SYLVESTER REED,)) CASE NO. 4:25-CV-01109 Plaintiff,)) v.)
JUDGE BENITA Y. PEARSON) NORTHEAST OHIO CORRECTIONAL) MEMORANDUM
OF CENTER et al.,) OPINION AND ORDER) [Resolving ECF Nos. 13, 16] Defendants.) I.
INTRODUCTION The Court considers a Motion to Dismiss (ECF No. 13) entered under Federal
Rule of Civil Procedure 12(b)(6).

Federal inmate Sylvester Reed sues his jailers pro se for denying him post-surgery medical care during his recovery while incarcerated. Construed liberally, Plaintiff raises claims under 42 U.S.C. § 1983 and the Americans With Disabilities Act (“ADA”). Nearly a year later—and in derogation of the Court’s extensive leniency, see ECF Nos. 4, 6, 15—he has served just one party: Defendant CoreCivic, Inc. See CoreCivic, Better the Public Good (last visited Mar.

24, 2026). Now, Defendant CoreCivic¹ moves to dismiss the Complaint for “failure 1 Movant owns and operates co-Defendant Northeast Ohio Correctional Center (“NEOCC”) in Youngstown, Ohio where Plaintiff was temporarily incarcerated during the incidents herein. Despite being named, NEOCC is a non-juridical entity incapable of being sued. See *Foster v. Ne. Ohio Corr.*

Ctr., Case No. 4:25-CV-295, 2025 WL 2299331, at *3 (N.D. Ohio Aug. 8, 2025) (dismissing NEOCC because it does not have a separate existence; it is merely a facility owned and operated by CoreCivic, Inc.). To the extent the Complaint raises any claims against NEOCC, they are dismissed. See *Glaser v. Smith*, No. 4:22-CV-1019, 2023 WL 4052470, at *8 n.5 (N.D. Ohio June 16, 2023). to state a claim upon which relief can be granted.” Fed.

R. Civ. P. 12(b)(6). The Motion is unopposed and ripe for review.² II. BACKGROUND A. HISTORY In 2021, Plaintiff was indicted for four bank robberies in the Western District of New York. See *United States v. Reed*, No. 6-21-CR-06057 (W.D.N.Y. Apr. 15, 2021); 18 U.S.C. § 2113(a). During his pretrial detention in 2023, he had back and elbow surgery in Rochester, New York and was transferred to NEOCC for recovery.

See ECF No. 1 at PageID #: 3. He claims that, while at NEOCC, he was “denied the right to go on any of [his] follow up app[oin]tments,” “denied the right to complete... physical therapy on [his] back” or “on [his] hand,” and “denied all [his] day to day medications for over three weeks.” See ECF No. 1 at PageID #: 4 (NEOCC Clinic Note signed July 18, 2023.).

Plaintiff alleges that NEOCC staff “neglected all of [his] medical needs, and did not provide [him] with the proper medical care, or give [him] the opportunity to have a successful recovery after surgery.” See ECF No. 1 at PageID #: 4. Later that year, Plaintiff pled guilty and was sentenced to 126 months in federal prison. See ECF No. 1 at PageID #: 4. Later, he was incarcerated at Federal Correctional Institution (“FCI”) Otisville.

From there, he transferred to Federal Medical Center (“FMC”) 2 Plaintiff’s response to the motion to dismiss was due by January 16, 2026. While he managed to file a third motion for appointment of counsel just days later, he has not responded to the motion or requested additional time to do so.

The Court’s authority to grant a motion to dismiss because it is unopposed is “well established,” and Plaintiff’s “failure to respond” could be treated “as a confession to” the Motion’s merit. *Demsey v. R.J. Reynolds Tobacco Co.*, No. 1:04CV1942, 2005 WL 1917934, at *2 (N.D. Ohio Aug. 10, 2005) (citing *Cacevic v. City of Hazel Park*, 226 F.3d 483, 492 (6th Cir.

2000)). Springfield in 2025. He remains there today. See *Reed*, No. 6-21-CR-06057. Plaintiff anticipates release in 2030. See ECF No. 1 at PageID #: 3. B. PROCEEDINGS On May 28, 2025, Plaintiff filed a civil lawsuit pro se in the Northern District of Ohio against seven Defendants: NEOCC, CoreCivic, Inc., Health Services ADM Hightower, the United States Marshals Service (“USMS”), United States Marshal (“USM”) Peter Elliot, USM Shane Marchal, and USM Steven Patizzine.

His Complaint asserts—what the Court construes as—three causes of action. First, a violation of his Eighth and Fourteenth Amendment rights under 42 U.S.C. § 1983. Second, a violation of his civil rights under *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971).

Third, a violation of his statutory rights under the Americans with Disabilities Act (“ADA”). See ECF No. 1–6 at PageID #: 73. The Court considered but declined to appoint pro bono counsel. See ECF Nos. 3, 4. When service stagnated, the Court ordered Plaintiff to show cause for the delay and provided new summonses. See ECF No. 4 at PageID #: 2. Plaintiff complied, and the USMS entered a Return of Service that Defendant CoreCivic had been served via certified mail à la FedEx on November 17, 2025.

See ECF No. 9 at PageID #: 128. Service was returned unexecuted for Defendant USM Patizzine because there is “no U.S. Marshal by that name.” ECF No. 8 at PageID #: 127. The docket shows that Defendant CoreCivic remains the only party served and, on December 11, 2025, it entered a Motion to Dismiss under Rule 12(b)(6). See ECF No. 13. Plaintiff did not respond.

As indicated above, the Motion is unopposed and ripe for resolution. III. LAW A. PLEADING The Federal Rules of Civil Procedure require a complaint to contain “a short and plain statement of the claim showing that the pleader is entitled to relief” so as to “give the defendant fair notice of what the... claim is and the grounds upon which it rests.” Fed. R. Civ.

P. 8(a)(2); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (citing *Conley v. Gibson*, 355 U.S. 41, 47 (1957)) (cleaned up). The rule does not require “detailed factual allegations,” but demands “more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Twombly*, 550 U.S. at 544; *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A complaint containing only

“labels and conclusions” or a “formulaic recitation of the elements of a cause of action” will not suffice.

Hensley Mfg. v. ProPride, Inc., 579 F.3d 603, 609 (6th Cir. 2009) (quoting *Twombly*, 550 U.S. at 555). Rather, the allegations “must be enough to raise a right to relief above the speculative level.” *Twombly*, 550 U.S. at 555 (citing 5 C. Wright & A. Miller, *Federal Practice and Procedure* § 1216, pp. 235–236 (3d ed. 2004)); see *Iqbal*, 556 U.S. at 678–79 (noting that Rule 8 “marks a notable and generous departure from the hypertechnical, code-pleading regime of a prior era, but it does not unlock the doors of discovery for a plaintiff armed with nothing more than [mere] conclusions”).

Litigants without legal counsel proceed *pro se*, meaning “on their own behalf, without an attorney.” *Black’s Law Dictionary* (12th ed. 2024). Pleadings from *pro se* plaintiffs are held “to less stringent standards than formal pleadings drafted by lawyers.” *Haines v. Kerner*, 404 U.S. 519, 520 (1972); *Hahn v. Star Bank*, 190 F.3d 708, 715 (6th Cir. 1999). “[P]*ro se* [plaintiffs] should not be precluded from resorting to the courts merely for want of sophistication.” *Jourdan v. Jabe*, 951 F.2d 108, 110 (6th Cir.

1991); see *Marbury v. Madison*, 1 Cranch 137, 163 (1803) (“The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury”). When faced with a Rule 12(b)(6) motion, “a *pro se* complaint will be liberally construed in determining whether it fails to state a claim upon which relief could be granted.” *Jourdan*, 951 F.2d at 110 (citing *Estelle v. Gamble*, 429 U.S. 97, 106 (1976)).

Some *pro se* claims, no matter how “inartfully pleaded,” may be construed generously to survive dismissal. *Haines*, 404 U.S. at 520. Yet *pro se* plaintiffs “are not automatically entitled to take every case to trial” because “the lenient treatment generally accorded to [them] has [its] limits.” *Pilgrim v. Littlefield*, 92 F.3d 413, 416 (6th Cir. 1996) (citing *Jourdan*, 951 F.2d 110)).

Some *pro se* pleadings are so ham-handed that “there is no basis for treating that [*pro se*] party more generously than a represented litigant.” *Pilgrim*, 92 F.3d at 416. And jurisprudential leniency “does not require a court to conjure allegations on a litigant’s behalf,” *Martin v. Overton*, 391 F.3d 710, 714 (6th Cir. 2004), because a district court “should not have to guess at the nature of the claim asserted.” *Wells v. Brown*, 891 F.2d 591, 594 (6th Cir.

1989) (citing *Clark v. National Travelers Life Ins. Co.*, 518 F.2d 1167 (6th Cir. 1975)). B. MOTION TO DISMISS In response to a detail-deficient complaint, a defendant may move under Rule 12(b)(6) to dismiss for “failure to state a claim upon which relief can be granted.” The Supreme Court mandates, via *Twombly* and *Iqbal*, a two-pronged approach when a district court considers a motion to dismiss.

See 550 U.S. at 552; 556 U.S. at 679. First, a court must take all the plaintiff's allegations as true, "even if [they are] doubtful in fact." *Twombly*, 550 U.S. at 555; see *Neitzke v. Williams*, 490 U.S. 319, 327 (1989) ("[Rule 12(b)(6)] does not countenance... dismissals based on a judge's disbelief of a complaint's factual allegations").³ "[T]he tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions." *Iqbal*, 556 U.S. at 678.

A district court is "not bound to accept as true a legal conclusion couched as a factual allegation," see *Papasan v. Allain*, 478 U.S. 265, 286 (1986), and may "choose to begin by identifying pleadings that, because they are no more than conclusions, are not entitled to the assumption of truth." *Iqbal*, 556 U.S. at 679.

Second, "only a complaint that states a plausible claim for relief survives a motion to dismiss." *Id.* Facial plausibility is "factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* at 678. A claim need not be "probable" but must—at minimum—be "plausible" to survive dismissal. See *id.*; *Twombly*, 550 U.S. at 546 ("Without further factual enhancement, [a claim] stops short of the line between possibility and plausibility.") Guided by precedent, resolving a motion to dismiss is "a context-specific task that requires the reviewing court to draw on its judicial experience and common sense." *Iqbal*, 556 U.S. at 679 (quoting *Iqbal v. Hasty*, 490 F.3d 143 (2d Cir.

2007)).³ "[T]he tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions." *Iqbal*, 556 U.S. at 678. A district court is "not bound to accept as true a legal conclusion couched as a factual allegation," see *Papasan v. Allain*, 478 U.S. 265, 286 (1986), and may "choose to begin by identifying pleadings that, because they are no more than conclusions, are not entitled to the assumption of truth." *Iqbal*, 556 U.S. at 679.

IV. DISCUSSION 4 A. CLAIM I — 42 U.S.C. § 1983 In 42 U.S.C. § 1983, Congress provides a cause of action for state violations of constitutional and statutory rights. See *Bougress v. Mattingly*, 482 F.3d 886, 887 (6th Cir. 2007). A § 1983 claim requires a plaintiff to prove two elements.

First, that he was deprived a right, privilege, or immunity secured by the Constitution or federal law. See *Gregory v. Shelby Cty., Tenn.*, 220 F.3d 433, 441 (6th Cir. 2000) (citing *Flagg Bros. v. Brooks*, 436 U.S. 149, 155 (1978)).

Second, that the person who deprived him of that right did so while acting "under color of state law." See *id.* Acting under color of state law "requires that the defendant in a § 1983 action have exercised power possessed by virtue of state law and made possible only because the wrongdoer is clothed with the [state's] authority." *West v. Atkins*, 487 U.S. 42, 49 (1988). * * * Defendant CoreCivic is a private entity.

A private entity may be held liable under § 1983 only when its conduct is “fairly attributable to the state.” *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 937 (1982). Yet the Complaint offers no allegations suggesting Defendant CoreCivic is a state actor or acted under color of state law.

On the contrary, Plaintiff admits he was a federal detainee housed at a private prison at all times relevant to this dispute. See ECF No. 1 at PageID #: 4. The Sixth Circuit has directly addressed this in analogous cases, including *Bishawi v. Northeast Ohio Correctional Ctr.*: [a]t the time of the events complained of, [the plaintiff] was incarcerated at NEOCC, a private prison owned and operated by [the 4 The Court declines to address any statute of limitations concerns herein, as the issue was neither briefed nor argued.

Still, it notes that—under Ohio Rev. Code § 2305.10—those claims likely expired in March 2025, two months before Plaintiff initiated this lawsuit. defendant], a private corporation, to provide services for the federal government.

Because NEOCC does not provide services on behalf of the state, neither NEOCC nor [the defendant] were acting under the color of state law for the purposes of § 1983. Further, NEOCC’s employees cannot be considered state actors because they are employees of a privately operated prison, operated for the federal government.

Thus, the district court correctly found that § 1983 is not applicable to this case. 628 Fed. Appx. 339, 342 (6th Cir. 2014). Similarly, in *Ayon v. Northeast Ohio Correctional Center*, the Sixth Circuit held that a district court properly reviewed a claim brought by a federal prisoner at NEOCC under *Bivens* rather than § 1983 “because there was no allegation [that the defendant was acting] under color of state law.” 478 Fed.

App’x 999, 1000 (6th Cir. 2012). Even if Plaintiff could sue Defendant CoreCivic under § 1983, he alleges no plausible facts or law showing a constitutional violation. As a then-pretrial detainee, he must satisfy the Fourteenth Amendment’s objective and subjective components, but the Complaint alleges only negligence and dissatisfaction with care, despite evidence of repeated medical attention and a declined appointment.

See *Hyman v. Lewis*, 27 F.4th 1233, 1237 (6th Cir. 2022). And he makes no allegations of a custom or policy that caused him harm as required by *Monell v. Dept. of Soc. Services of City of New York*, 436 U.S. 658 (1978). A generous reading of the complaint could suggest Plaintiff is alleging a pattern of systematic neglect, but even with that leniency, he failed to plead sufficient facts.

To the extent that Claim I asserts Eighth or Fourteenth Amendment causes of action against Defendant CoreCivic under § 1983, it fails to state a claim on which relief can be granted B. CLAIM II — BIVENS Relief under 42 U.S.C. § 1983 is available against state actors, not federal ones.

Under *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, however, a plaintiff may sue individual federal officers for constitutional violations and “recover money damages for any injuries... suffered as a result.” 403 U.S. 388, 397 (1971); see *Ayon*, 478 Fed. Appx. at 1000. (noting a *Bivens* claim “arises out of a violation of an individual's federal constitutional rights by one who is acting under color of federal law”).

If Plaintiff, a federal inmate, has a constitutional or civil rights claim, “it [must] arise, if at all, under *Bivens*.” *Bishawi v. N.E. Ohio Corr. Ctr.*, No. 4:12-CV-3106, 2013 WL 3893381, at *5 (N.D. Ohio July 26, 2013). Recognizing a *Bivens* remedy requires a two-step inquiry. See *Wilkie v. Robbins*, 551 U.S. 537, 550 (2007).

First, a court considers whether an alternative process for protecting the constitutional interest already exists. Second, absent an alternative, a court weighs any special factors “counselling hesitation before authorizing a new kind of federal litigation.” *Bush v. Lucas*, 462 U.S. 367, 378 (1983).

Under this approach, the Supreme Court has determined that a prisoner in federal detention at a facility operated by a private company cannot assert a *Bivens* claim for damages against the facility’s employees for inadequate or deprived medical care. See *Minnecci v. Pollard*, 565 U.S. 118, 126 (2012). And *Bivens*’ “limited holding” does not extend “to confer a right of action for damages against private entities acting under color of federal law,” including private prison operators.

See *Corr. Services Corp. v. Malesko*, 534 U.S. 61 (2001) (noting that “whether it makes sense to impose asymmetrical liability costs on private prison facilities... is a question for Congress, not us, to decide”); *Ziglar v. Abbasi*, 582 U.S. 120, 140 (2017) (noting that a *Bivens* claim “is brought against the individual official for his or her own acts, not the acts of others”).

Finally, a *Bivens* claim cannot be brought against a federal agency itself (including, e.g., the USMS writ large). See *F.D.I.C. v. Meyer*, 510 U.S. 471, 483 (1994). * * * Plaintiff’s *Bivens* claim against Defendant CoreCivic is barred by *Malesko* and *Minnecci*. See 534 U.S. at 70; 565 U.S. 118, 126 (2012). CoreCivic is a private corporation that operates for-profit prisons under contract with the federal and state governments.

Under *Malesko*, Supreme Court “has already declined to extend *Bivens* to claims asserted against a private prison or the corporate entity that owns and operates it.” *Bishawi*, 2013 WL 3893381, at *7 (citing *id.*). And under *Minnecci*, Plaintiff cannot assert a *Bivens* claim for damages against Defendant CoreCivic’s employees for conduct that falls within the scope of traditional state tort law, an alternative and extant process for protecting any constitutional interests at stake.

See 565 U.S. at 125; *Ayon*, 478 Fed. App’x at 1000 (finding no *Bivens* remedy against NEOCC’s warden where state tort remedies were available). Therefore, Claim II fails to state a claim on

which relief can be granted. C. CLAIM III — ADA The ADA is tripartite. See 42 U.S.C. §§ 12101–12213. Title I covers discrimination in the workplace. See *Tennessee v. Lane*, 541 U.S. 509, 516–17 (2004).

Title II covers public entity discrimination. See *id.* And Title III covers discrimination by private entities in public accommodations. See *id.* The ADA prohibits, *inter alia*, intentional discrimination based on disability. See *Roell v. Hamilton Cnty.*, 870 F.3d 471, 488 (6th Cir. 2017)). A *prima facie* case of intentional discrimination requires a plaintiff to show that he: (1) has a disability,⁵ (2) is otherwise qualified; and (3) was excluded from participation in a program, denied the benefits of a program, or subjected to discrimination because of his disability.

See *Anderson v. City of Blue* 5 A disability is “[1] a physical or mental impairment that substantially limits one or more of the major life activities of such individual; [2] a record of such an impairment; or [3] being regarded as having such an impairment.” 42 U.S.C. § 12102(2). *Ash*, 798 F.3d 338, 357 (6th Cir. 2015).

To succeed, a plaintiff must present evidence that “animus against the [disabled] group was a significant factor” in the offending conduct. *Turner v. City of Englewood*, 195 F. App’x 346, 353 (6th Cir. 2006). Although, the Sixth circuit Court of Appeals has not addressed the issue, district courts throughout the Sixth Circuit hold that ADA Titles II and III do not apply to private prisons because “Title II of the ADA is applicable only to state and local governments, not the federal government” and a “[f]ederal prison does not constitute a place of public accommodation under Title III[.]” *Collazo v. Corr.*

Corp. of Am., No. 4:11CV1424, 2011 WL 6012425, at *3 (N.D. Ohio Nov. 30, 2011); see, e.g., *Foster v. N.E. Ohio Corr. Ctr.*, No. 4:25-CV-295, 2025 WL 2917112, at *4 (N.D. Ohio Oct. 14, 2025); *Anderson v. S. Cent. Corr. Facility*, No. 1:14-21, 2016 WL 54921 (M.D. Tenn. Jan. 5, 2016); *Tester v. Hurm*, No. 09-318, 2011 WL 6056407, at *3 (E.D. Ky. Dec. 6, 2011); accord *Edison v. Doublerly*, 604 F.3d 1307, 1310 (11th Cir.

2010) (noting that “merely by contracting with the [s]tate to provide governmental services, essential or otherwise” does not make a private prison liable under the ADA). * * * Claim III fails because it is not sufficiently pled “to raise a right to relief above the speculative level.” *Twombly*, 550 U.S. at 555.

First, Title I is inapplicable; Plaintiff is not a CoreCivic employee. Second, the Court need not decide whether Defendant CoreCivic may be held liable under Titles II and III. While Plaintiff invokes the ADA broadly as a font of relief, he neither cites specific statutory provisions nor alleges sufficient plausible facts to “give the defendant fair notice of what the claim is and the grounds upon which it rests[.]” *Twombly*, 550 U.S. at 555.

Even when construed liberally, the Complaint makes no assertion that Plaintiff had a qualifying disability in 2023, no explanation that he was otherwise eligible for a program or service, and no allegation that he was discriminated against because of his (un)alleged disability. Nor does he argue that Defendant CoreCivic was a “mere instrumentality” of the state sufficient for Title II liability to attach.

See 42 U.S.C. § 12131(1)(B). The Court declines to “guess at the nature of the claim asserted” and will not “conjure allegations on [Plaintiff’s] behalf.” Wells, 891 F.2d at 594; Overton, 391 F.3d at 714. The Complaint amounts to dissatisfaction with medical care, a position familiar to many Americans, yet insufficient for a cause of action under the ADA, pro se or otherwise.

Claim III fails to state a claim on which relief can be granted. D. INJUNCTIVE RELIEF Plaintiff asks that “H.S.A. Hightower to be removed as provider, along with Northeast Ohio [Correctional Center]... be shut down.” ECF No. 1 at PageID #: 5. A federal inmate’s claim for declaratory and injunctive relief against a prison or prison staff becomes moot once the prisoner is transferred to a different correctional institution.

See Henderson v. Martin, 73 Fed. App’x 115, 117 (6th Cir. 2003) (citing Kensu v. Haigh, 87 F.3d 172, 175 (6th Cir. 1996)). Plaintiff is now incarcerated at FMC Springfield, not NEOCC. For this reason, and because the Court dismisses Plaintiff’s Complaint in toto, his claim for injunctive relief is dismissed as moot. See Edelstein v. Flottman, No. 24-3156, 2025 WL 609487, at *3 (6th Cir.

Jan. 10, 2025). V. CONCLUSION The Motion to Dismiss (ECF No. 12) is granted under Fed. R. Civ. P. 12(b)(6). All claims against Defendant Core Civic and non-juridical sub-entity NEOCC are dismissed with prejudice. And because Plaintiff has failed to complete service of process on the remaining Defendants as required by Fed. R. Civ. P. 4(m), all remaining claims are dismissed.

Plaintiff has had over 300 days to perfect service. Even when granted the leniency that pro se prisoners rightly receive, such excess is inexcusable. For Defendant USMS, all claims are dismissed with prejudice under Bivens and Meyer.

For Defendant USM Patizzine, all claims are dismissed with prejudice because there is “no U.S. Marshal by that name.” ECF No. 8 at PageID #: 127. For Defendants Health Services ADM Hightower, USM Peter Elliot, and USM Shane Marchal, all claims are dismissed without prejudice. Given this dismissal, Plaintiff’s Motion for Appointment of Counsel (ECF No. 16) is denied as moot.

The Court further certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith. IT IS SO ORDERED. March 27, 2026 /s/ Benita Y. Pearson Date Benita Y. Pearson United States District Judge

