

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
WISCONSIN

Antione L. Harris v. Brett Hommes

No. 25-cv-1567-bhl, United States District Court for the Eastern District of Wisconsin (December 4, 2025)

SUMMARY

The United States District Court for the Eastern District of Wisconsin screened Antione L. Harris’s amended 42 U.S.C. § 1983 complaint alleging that a correctional officer made a racially derogatory comment. The court held that the alleged verbal harassment did not state a constitutional claim, dismissed the action for failure to state a claim, and ordered that Harris receive a strike under 28 U.S.C. § 1915(g).

CASE DETAILS

COURT	United States District Court for the Eastern District of Wisconsin
WRITING FOR THE COURT	Brett H. Ludwig
JURISDICTION	United States District Court for the Eastern District of Wisconsin
DECIDED	December 4, 2025
DOCKET	25-cv-1567-bhl
DISPOSITION	dismissed
PROCEDURAL POSTURE	Screening of a pro se prisoner's amended 42 U.S.C. § 1983 complaint under 28 U.S.C. § 1915A.
STANDARD OF REVIEW	The court screened the amended prisoner complaint under 28 U.S.C. § 1915A, determining whether it complied with the Federal Rules of Civil Procedure and stated at least a plausible claim for relief; dismissal was required for failure to state a claim.
PRECEDENTIAL VALUE	unknown
PARTIES	Antione L. Harris v. Brett Hommes

TOPICS

- prisoners rights
- section 1983
- cruel and unusual punishment
- civil rights
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether an officer's alleged racially derogatory verbal comment to a prisoner states a claim for cruel and unusual punishment or another constitutional violation under 42 U.S.C. § 1983.
2. Whether the amended complaint should be dismissed during screening for failure to state a claim under 28 U.S.C. § 1915A.

HOLDINGS

1. A racially derogatory verbal comment, standing alone, does not rise to the level of cruel and unusual punishment and does not state a constitutional claim under § 1983.
2. The amended complaint was subject to dismissal under 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b)(1) because it failed to state a claim.

KEY QUOTATIONS

“Standing alone, simple verbal harassment does not constitute cruel and unusual punishment, deprive a prisoner of a protected liberty interest, or deny a prisoner equal protection of the laws.” (at 2)

“Harris’ allegation that Hommes directed a racially derogatory statement at him therefore fails to state a claim upon which relief can be granted.” (at 2)

FACTUAL BACKGROUND

On August 21, 2025, while Harris was receiving medication at the Racine Correctional Institution, Officer Hommes allegedly asked whether Harris had seen the movie Planet of the Apes. Hommes allegedly said that Harris looked like the white gorilla in the movie and laughed. Harris, who is African American, alleged that the comment was demeaning and offensive.

PROCEDURAL HISTORY

Harris filed an original complaint alleging that prison officer Brett Hommes made a racially derogatory comment. The court previously screened the original complaint, found that it failed to state a claim, and allowed Harris to amend. After reviewing the amended complaint, which repeated the original allegations, the court dismissed the action for failure to state a claim and directed entry of judgment and a strike under 28 U.S.C. § 1915(g).

DISPOSITION

dismissed

CASES CITED

- DeWalt v. Carter, 224 F.3d 607, 612 (7th Cir. 2000)

- *Dobbey v. Illinois Department of Corrections*, 574 F.3d 443, 445 (7th Cir. 2009)

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