

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

Brian Tyrone Carter v. Weber County Correctional Facility et al.

Carter · No. 1:24-CV-153-TS · Decided June 15, 2026

SUMMARY

The United States District Court for the District of Utah screened Brian Tyrone Carter’s pro se 42 U.S.C. § 1983 complaint under 28 U.S.C. § 1915A and identified numerous pleading deficiencies. The court ordered Carter to file an amended complaint within thirty days, providing guidance concerning personal participation, defendant capacity, municipal liability, retaliation, conspiracy, deliberate indifference, failure to protect, and related claims. The order warned that failure to timely cure the deficiencies would result in dismissal without further notice.

CASE DETAILS

COURT	United States District Court for the District of Utah
WRITING FOR THE COURT	Ted Stewart
JURISDICTION	United States District Court for the District of Utah
DECIDED	June 15, 2026
DOCKET	1:24-CV-153-TS
DISPOSITION	other
PROCEDURAL POSTURE	Prisoner civil-rights action under 42 U.S.C. § 1983; the court screened the complaint under 28 U.S.C. § 1915A and ordered plaintiff to file an amended complaint curing identified deficiencies.
STANDARD OF REVIEW	Mandatory screening under 28 U.S.C. § 1915A; the court must identify cognizable claims or dismiss claims that are frivolous, malicious, fail to state a claim, or seek monetary relief from an immune defendant.
PRECEDENTIAL VALUE	nonprecedential district-court memorandum decision and order
PARTIES	Brian Tyrone Carter v. Weber County Correctional Facility, Weber County Sheriff's Office, Other defendants named in the complaint

TOPICS

[pleadings](#)

[civil procedure](#)

[section 1983](#)

[prisoners rights](#)

[due process](#)

PRACTICE AREAS

prisoner civil rights

federal civil procedure

constitutional law

pleading

QUESTIONS PRESENTED

1. Whether the complaint stated cognizable claims under 42 U.S.C. § 1983 when it failed to affirmatively link each named defendant to the alleged constitutional violations.
2. Whether the complaint improperly sought to impose § 1983 liability on governmental subunits and supervisors based on respondeat superior.
3. Whether the complaint adequately pleaded its asserted retaliation, equal-protection, conspiracy, physical-treatment, due-process, racial-discrimination, and failure-to-protect theories.
4. Whether the complaint could proceed when it relied on alleged violations of prison policies, state law, ethics rules, or the Prison Rape Elimination Act without establishing a federal constitutional claim.
5. What amendment and pleading requirements Carter must satisfy to cure the complaint's deficiencies.

HOLDINGS

1. The complaint was deficient under the screening statute because it failed to state adequately pleaded, cognizable claims and did not sufficiently connect particular defendants to the alleged violations. The court therefore required an amended complaint rather than permitting the action to proceed on the original pleading.
2. A § 1983 complaint must identify what each individual defendant personally did and affirmatively link that defendant to each alleged constitutional violation; conclusory allegations that lump defendants together are insufficient.
3. There is no respondeat superior liability under § 1983. A supervisor may be liable only for the supervisor's own unconstitutional conduct, policy, or participation, not merely because the supervisor employed or supervised the alleged tortfeasor.
4. Governmental subunits such as correctional facilities, sheriff's offices, and police departments generally are not separate suable entities under § 1983 unless they have independent legal existence or jural authority.
5. Any amended complaint must stand entirely on its own, identify each defendant in the caption and claims section, separately state each cause of action with supporting facts, and comply with Federal Rule of Civil Procedure 8 and other applicable rules.
6. A retaliation claim requires allegations that the plaintiff engaged in constitutionally protected activity, suffered an injury that would chill a person of ordinary firmness from continuing that activity, and was injured because the defendants were substantially motivated by the protected conduct.
7. An Eighth Amendment conditions-of-confinement claim requires an objectively sufficiently serious deprivation or substantial risk of serious harm and a defendant's subjective deliberate indifference. A failure-to-protect claim likewise requires an objective substantial risk of serious harm and subjective knowledge and disregard of that risk by prison officials.

KEY QUOTATIONS

“A plaintiff who brings a constitutional claim under § 1983 can't obtain relief without first satisfying the personal-participation requirement.” (Section B, paragraph 10)

“Because vicarious liability is inapplicable to Bivens and § 1983 suits, a plaintiff must plead that each Government-official defendant, through the official's own individual actions, has violated the Constitution.” (Section B, paragraph 9)

“Generally, governmental sub-units are not separate suable entities that may be sued under § 1983.” (Section B, paragraph 8)

“Exhaustion of administrative remedies is an affirmative defense that must be raised by defendants.” (Section B, paragraph 7)

FACTUAL BACKGROUND

Brian Tyrone Carter, an inmate at a Weber County facility, filed a pro se § 1983 complaint against the Weber County Correctional Facility, the Weber County Sheriff's Office, and individually named defendants. The complaint appeared to assert numerous theories, including retaliation, equal protection, conspiracy, inadequate physical treatment, failure to protect, due process, racial discrimination, and violations of policies and state law. The court found that the pleading did not adequately identify the conduct of particular defendants, the elements of the asserted claims, or the capacity in which defendants were sued.

PROCEDURAL HISTORY

Carter, a Weber County inmate proceeding pro se, filed a complaint alleging multiple constitutional and statutory violations. After screening the complaint under 28 U.S.C. § 1915A, the court identified pleading deficiencies and directed Carter to file an amended complaint within thirty days. The court warned that failure to timely cure the deficiencies would result in dismissal without further notice.

DISPOSITION

other

CASES CITED

- *Hale v. Federal Bureau of Prisons*, 759 F. App'x 741, 752 (10th Cir. 2019)
- *Cleveland Board of Education v. Loudermill*, 470 U.S. 532, 542 (1985)
- *Gallagher v. Shelton*, 587 F.3d 1063, 1069 (10th Cir. 2009)
- *Boyd v. Werholtz*, 443 F. App'x 331, 332 (10th Cir. 2011)
- *Dixon v. Bishop*, No. CV TDC-19-740, 2020 U.S. Dist. LEXIS 41678, at *20 (D. Md. Mar. 11, 2020)
- *Johnson v. Garrison*, 859 F. App'x 863, 863-64 (10th Cir. 2021)
- *Williams v. Miller*, 696 F. App'x 862, 870 (10th Cir. 2017)
- *Porro v. Barnes*, 624 F.3d 1322, 1329 (10th Cir. 2010)
- *Hostetler v. Green*, 323 F. App'x 653, 657-58 (10th Cir. 2009)

- *Hovater v. Robinson*, 1 F.3d 1063, 1068 n.4 (10th Cir. 1993)
- *TV Communications Network, Inc. v. ESPN, Inc.*, 767 F. Supp. 1062, 1069 (D. Colo. 1991)
- *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991)
- *Dunn v. White*, 880 F.2d 1188, 1197 (10th Cir. 1989)
- *Murray v. Archambo*, 132 F.3d 609, 612 (10th Cir. 1998)
- *Bennett v. Passic*, 545 F.2d 1260, 1262-63 (10th Cir. 1976)
- *Stone v. Albert*, 338 F. App'x 757, 759 (10th Cir. 2009)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 676 (2009)
- *Board of County Commissioners v. Brown*, 520 U.S. 397, 403-04 (1997)
- *Monell v. Department of Social Services*, 436 U.S. 658, 689-91, 694 (1978)
- *Barney v. Pulsipher*, 143 F.3d 1299, 1307-08 (10th Cir. 1998)
- *Vasquez v. Davis*, 882 F.3d 1270, 1275 (10th Cir. 2018)
- *Pahls v. Thomas*, 718 F.3d 1210, 1225 (10th Cir. 2013)
- *Tonkovich v. Kansas Board of Regents*, 159 F.3d 504, 532-33 (10th Cir. 1998)
- *Estate of Roemer v. Johnson*, 764 F. App'x 784, 790-91 (10th Cir. 2019)
- *Hafer v. Melo*, 502 U.S. 21, 25 (1991)
- *Coates v. Reigenborn*, Nos. 22-1339 & 22-1434, 2023 U.S. App. LEXIS 27456, at *9-10 (10th Cir. Oct. 16, 2023)
- *Mocek v. City of Albuquerque*, 813 F.3d 912, 932 (10th Cir. 2015)
- *Perry v. Durborow*, 892 F.3d 1116, 1122 (10th Cir. 2018)
- *Cox v. Glanz*, 800 F.3d 1231, 1254 (10th Cir. 2015)
- *Jackson-Mackay v. McDonald*, No. 22-8033, 2023 U.S. App. LEXIS citation incomplete in source
- *Shero v. City of Grove*, 510 F.3d 1196, 1203 (10th Cir. 2007)
- *Beedle v. Wilson*, 422 F.3d 1059, 1073 (10th Cir. 2005)
- *Farmer v. Brennan*, 511 U.S. 825, 832-37 (1994)
- *Shannon v. Graves*, 257 F.3d 1164, 1168 (10th Cir. 2001)
- *Self v. Crum*, 439 F.3d 1227, 1232 (10th Cir. 2006)
- *Giron v. Correctional Corporation of America*, 191 F.3d 1281, 1286 (10th Cir. 1999)
- *Brooks v. Colorado Department of Corrections*, 12 F.4th 1160, 1173 (10th Cir. 2021)
- *Hale-El v. Doe*, No. 25-1044, -1045, 2025 U.S. App. LEXIS 15749, at *7-8 (10th Cir. June 25, 2025)
- *Requena v. Roberts*, 893 F.3d 1195, 1214 (10th Cir. 2018)
- *Pittman v. Kahn*, No. 23-1153, 2024 U.S. App. LEXIS 3043, at *3-4 (10th Cir. Feb. 9, 2024)
- *Darby v. Pasadena Police Department*, 939 F.2d 311, 313 (5th Cir. 1991)
- *Brown v. City of Tulsa*, 124 F.4th 1251, 1264-65 (10th Cir. 2025)

OPINION

THE UNITED STATES DISTRICT COURT DISTRICT OF UTAH BRIAN TYRONE CARTER,
MEMORANDUM DECISION Plaintiff, AND ORDER TO CURE DEFICIENT COMPLAINT v.
Case No. 1:24-CV-153-TS WEBER CNTY. CORR. FACILITY et al., District Judge Ted Stewart
Defendants.

As a Weber County (WC) inmate, pro se plaintiff Brian Tyrone Carter, brought this civil- rights action, see 42 U.S.C.S. § 1983 (2026).¹ Having now screened the Complaint, Dkt. No. 1, under its statutory review function, 28 U.S.C.S. § 1915A (2026),² the Court orders Plaintiff to file an amended complaint curing deficiencies if he would like to further pursue claims.

¹The federal statute creating a "civil action for deprivation of rights" reads, in pertinent part: Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory..., subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.

42 U.S.C.S. § 1983 (2026). ²The screening statute reads: (a) Screening.--The court shall review... a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity. (b) Grounds for dismissal.--On review, the court shall identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint-- (1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or A. COMPLAINT'S DEFICIENCIES The Complaint: 1. improperly names WC Correctional Facility and WC Sheriff's Office as § 1983 defendants, when they are not independent legal entities that can sue or be sued.

(See below.) 2. possibly improperly alleges civil-rights violations on a respondeat superior theory. (See below.) 3. generally does not properly affirmatively link individually named defendant(s) to each element of each alleged civil-rights violation. (See below.)

4. is not clear as to whether Plaintiff understands the difference between suing defendants in their individual or official capacities. (See below.) 5. does not adequately link each element of a retaliation claim to specific, named defendant(s). (See below.)

6. perhaps attempts to bring an equal-protection claim, but does not adequately link each element of an equal-protection claim to specific named defendant(s). See *Hale v. Fed. Bureau of Prisons*, 759 F. App'x 741, 752 (10th Cir. 2019) (explaining that--to state equal-protection claim- -plaintiff must allege facts showing (a) prison officials treated him differently from similarly situated inmates and (b) disparate treatment was not reasonably related to penological interests).

7. alleges conspiracy claims that are too vague. (See below.) 8. does not adequately link each element of improper physical treatment to each specific named defendant. (See below.) 9. does not adequately link each element of a due-process claim to specific named defendant(s). See *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542 (1985) ("An essential principle of due process is that a deprivation of life, liberty, or property be preceded by notice and opportunity for hearing appropriate to the nature of the case." (cleaned up)).

10. appears to allege crimes committed by the Defendants; however, a federal civil-rights action is not the proper place to address criminal behavior. Dkt. No. 1, at 3 (citing Utah Code Ann. §§ 76-8-508.3, 76-9-702, 76-9-702.1 (2026)).

(2) seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C.S. § 1915A (2026). 11. possibly inappropriately alleges civil-rights violations on the basis of denied grievances. See *Gallagher v. Shelton*, 587 F.3d 1063, 1069 (10th Cir. 2009).

12. possibly inappropriately alleges a constitutional right to a grievance process. See *Boyd v. Werholtz*, 443 F. App'x 331, 332 (10th Cir. 2011) (unpublished) ("[T]here is no independent constitutional right to state administrative grievance procedures. Nor does the state's voluntary provision of administrative grievance process create a liberty interest in that process."); *Dixon v. Bishop*, No. CV TDC-19-740, 2020 U.S. Dist.

LEXIS 41678, at *20 (D. Md. Mar. 11, 2020) ("[P]risons do not create a liberty interest protected by the Due Process Clause when they adopt administrative mechanisms for hearing and deciding inmate complaints[;] any failure to abide by the administrative remedy procedure or to process [grievances] in a certain way does not create a constitutional claim.").

13. does not adequately link each element of a racial discrimination claim to specific named defendant(s). (See below.) 14. only cursorily mentions the Administrative Procedure Act, which is not enough to establish any kind of claim under that Act.

15. does not adequately link each element of a failure-to-protect claim to specific named defendant(s). (See below.) 16. fails to recognize that the Prison Rape Elimination Act "does not provide a private right of action." See *Johnson v. Garrison*, 859 F. App'x 863, 863-64 (10th Cir. 2021) (unpublished).

17. does not appear to recognize Defendants' alleged failures to follow promises, jail policy, state statutes and codes, ethics rules, or standards set by commissions, do not necessarily equal federal constitutional violations. See, e.g., *Williams v. Miller*, 696 F. App'x 862, 870 (10th Cir. 2017) ("Merely showing that [defendants] may have violated prison policy is not enough [to show a constitutional violation]." (citations omitted)); *Porro v. Barnes*, 624 F.3d 1322, 1329 (10th Cir.

2010) (stating plaintiff never sought "to explain how or why the violation of the... [prison] policy... necessarily demonstrates" his constitutional rights were breached and "[i]t is his burden to establish that the Constitution, not just a policy, is implicated" (emphasis in original)); *Hostetler v. Green*, 323 F. App'x 653, 657-58 (10th Cir. 2009) (unpublished) (noting defendant's mere violation of prison regulation does not equate to constitutional violation); *Hovater v. Robinson*, 1 F.3d 1063, 1068 n.4 (10th Cir.

1993) ("[A] failure to adhere to administrative regulations does not equate to a constitutional violation."). 18. lacks recognition of principles applicable to holding local governmental entities liable under federal civil-rights law. (See below.) B. GUIDANCE FOR PLAINTIFF Rule 8 of the Federal Rules of Civil Procedure requires a complaint to contain "(1) a short and plain statement of the grounds for the court's jurisdiction...; (2) a short and plain statement of the claim showing that the pleader is entitled to relief; and (3) a demand for the relief sought."

Rule 8's requirements mean to guarantee "that defendants enjoy fair notice of what the claims against them are and the grounds upon which they rest." *TV Commc'ns Network, Inc. v ESPN, Inc.*, 767 F. Supp. 1062, 1069 (D. Colo. 1991). Pro se litigants are not excused from meeting these minimal pleading demands. "This is so because a pro se plaintiff requires no special legal training to recount the facts surrounding his alleged injury, and he must provide such facts if the court is to determine whether he makes out a claim on which relief can be granted."

Hall v. Bellmon, 935 F.2d 1106, 1110 (10th Cir. 1991). Moreover, it is improper for the Court "to assume the role of advocate for a pro se litigant." *Id.* Thus, the Court cannot "supply additional facts, [or] construct a legal theory for plaintiff that assumes facts that have not been pleaded." *Dunn v. White*, 880 F.2d 1188, 1197 (10th Cir. 1989). Plaintiff should consider these points before filing an amended complaint: 1.

The revised complaint must stand entirely on its own and shall not refer to, or incorporate by reference, any part of the original complaint(s). See *Murray v. Archambo*, 132 F.3d 609, 612 (10th Cir. 1998) (stating amended complaint supersedes original). Also, an amended complaint may not be added to after filing without moving for amendment. Fed. R. Civ. P. 15.

2. Each defendant must be named in the complaint's caption, listed in the section of the complaint setting forth names of each defendant, and affirmatively linked to applicable claims within the "cause of action" section of the complaint. 3.

The complaint must clearly state what each individual defendant--typically, a named government employee--did to violate Plaintiff's civil rights. See *Bennett v. Passic*, 545 F.2d 1260, 1262-63 (10th Cir. 1976) (stating personal participation of each named defendant is essential allegation in civil-rights action). "To state a claim, a complaint must 'make clear exactly who is alleged to have done what to whom.'" *Stone v. Albert*, 338 F. App'x 757, 759 (10th Cir.

2009) (unpublished) (cleaned up). Plaintiff should also include, as much as possible, specific dates or at least estimates of when alleged constitutional violations occurred. 4. Each cause of action, together with the facts and citations that directly support it, should be stated separately. Plaintiff should be as brief as possible while still using enough words to fully explain the "who," "what," "where," "when," and "why" of each claim.

Robbins v. Oklahoma, 519 F.3d 1242, 1248 (10th Cir. 2008) ("The [*Bell Atlantic Corp. v. Twombly*] Court was particularly critical of complaints that 'mentioned no specific, time, place, or person involved in the alleged [claim].' [550 U.S. 544, 565] n.10 (2007). Given such a complaint, 'a defendant seeking to respond to plaintiff's conclusory allegations... would have little idea where to begin.'"

Id."). 5. Plaintiff may not name an individual as a § 1983 defendant based solely on supervisory position. See *Mitchell v. Maynard*, 80 F.2d 1433, 1441 (10th Cir. 1996). 6. Grievance denial alone, unconnected to "violation of constitutional rights alleged by plaintiff, does not establish personal participation under § 1983." *Gallagher v. Shelton*, 587 F.3d 1063, 1069 (10th Cir.

2009). 7. "No action shall be brought with respect to prison conditions under... Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." 42 U.S.C.S. § 1997e(a) (2025).

However, Plaintiff need not include grievance details in the complaint. Exhaustion of administrative remedies is an affirmative defense that must be raised by defendants. *Jones v. Bock*, 549 U.S. 199, 216 (2007). 8. Governmental sub-units. "Generally, governmental sub-units are not separate suable entities that may be sued under § 1983." *Hinton v. Dennis*, 362 Fed.

Appx. 904, 907 (10th Cir. 2010) (unpublished) (finding county criminal justice center not suable entity under § 1983). Indeed, the Tenth Circuit has acknowledged that sheriff's departments and police departments "are not legally suable entities." *Lindsey v. Thomson*, 275 Fed. App'x. 744, 747 (10th Cir. 2007); see also *Smith v. Lawton Corr. Facility*, No. CIV-18-110-C, 2018 U.S. Dist.

LEXIS 45488, at *5 (W.D. Okla. Mar. 7, 2018) (stating correctional facilities are "not suable entities in a § 1983 action"). 9. *Respondeat superior*. The Supreme Court holds that, in asserting a § 1983 claim against a government agent in an individual capacity, "a plaintiff must plead that each Government-official defendant, through the official's own individual actions, has violated the Constitution."

Ashcroft v. Iqbal, 556 U.S. 662 676 (2009). Consequently, there is no *respondeat superior* liability under § 1983. See *id.* ("Because vicarious liability is inapplicable to *Bivens* and § 1983 suits, a plaintiff must plead that each Government-official defendant, through the official's own individual actions, has violated the Constitution."); *Bd. of Cnty. Comm'rs v. Brown*, 520 U.S. 397, 403 (1997).

Entities may not be held liable on the sole ground of an employer-employee relationship with a claimed tortfeasor. See *Monell*, 436 U.S. at 689. Supervisors are considered liable for their own unconstitutional or illegal policies only, and not for employees' tortious acts. See *Barney v. Pulsipher*, 143 F.3d 1299, 1307-08 (10th Cir. 1998). 10. Affirmative Link.

[A] plaintiff who brings a constitutional claim under § 1983 can't obtain relief without first satisfying the personal-participation requirement. That is, the plaintiff must demonstrate the defendant "personally participated in the alleged constitutional violation" at issue. *Vasquez v. Davis*, 882 F.3d 1270, 1275 (10th Cir. 2018). Indeed, because § 1983 is a "vehicle[]" for imposing personal liability on government officials, we have stressed the need for careful attention to particulars, especially in lawsuits involving multiple defendants."

Pahls v. Thomas, 718 F.3d 1210, 1225 (10th Cir. 2013); see also *Robbins*, 519 F.3d at 1250 (explaining that when plaintiff brings § 1983 claims against multiple defendants, "it is particularly important... that the complaint make clear exactly who is alleged to have done what to whom"); *Tonkovich v. Kan. Bd. of Regents*, 159 F.3d 504, 532-33 (10th Cir. 1998) (holding that district court's analysis of plaintiff's § 1983 claims was "infirm" where district court "lump[ed]" together plaintiff's claims against multiple defendants--"despite the fact that each of the defendants had different powers and duties and took different actions with respect to [plaintiff]"--and "wholly failed to identify specific actions taken by particular defendants that could form the basis of [a constitutional] claim").

Estate of Roemer v. Johnson, 764 F. App'x 784, 790-91 (10th Cir. 2019). "A plaintiff's failure to satisfy this requirement will trigger swift and certain dismissal." *Id.* at 790 n.5. Indeed, the Tenth Circuit has "gone so far as to suggest that failure to satisfy the personal-participation requirement will not only justify dismissal for failure to state a claim; it will render the plaintiff's claim frivolous."

Id. 11. Official capacity versus individual capacity. The United States Court of Appeals for the Tenth Circuit explains: The Supreme Court has instructed that "official-capacity suits generally represent only another way of pleading an action against an entity of which an officer is an agent." *Hafer v. Melo*, 502 U.S. 21, 25 (1991) (cleaned up). By contrast, individual-capacity suits "seek to impose individual liability upon a government officer for actions taken under color of state law."

Id. *Coates v. Reigenborn*, Nos. 22-1339 & 22-1434, 2023 U.S. App. LEXIS 27456, at *9-10 (10th Cir. Oct. 16, 2023) (unpublished); see also *Mocek v. City of Albuquerque*, 813 F.3d 912, 932 (10th Cir. 2015) ("A suit against a government agent in his official capacity is treated as a suit against the government."). One difference between suing a defendant in an official versus individual capacity has to do with averring causation.

To adequately assert causation against a defendant in an individual capacity, the plaintiff must allege facts showing that the defendant "set in motion a series of events that he knew or reasonably should have known would cause others to deprive [the plaintiff] of her constitutional rights." *Perry v. Durborow*, 892 F.3d 1116, 1122 (10th Cir. 2018) (cleaned up); see also *Cox v. Glanz*, 800 F.3d 1231, 1254 (10th Cir.

2015) ("When confronting individual-capacity § 1983 claims, our focus must always be on the defendant--on the injury he inflicted or caused to be inflicted, and on his motives." (cleaned up)). Conversely, to adequately assert causation against a defendant in an official capacity, the plaintiff must first identify an official policy or custom, and then establish that the challenged policy or custom was the "'moving force' behind the injury alleged."

Brown, 520 U.S. at 404. Finally, Plaintiff should keep in mind too that "it makes no sense to sue a governmental entity in its individual capacity." *Jackson-Mackay v. McDonald*, No. 22-8033, 2023 U.S. App. 12. Retaliation Claim.

To properly assert a retaliation claim, Plaintiff must allege three elements: (1) he was involved in "constitutionally protected activity"; (2) Defendants' behavior injured him in a way that "would chill a person of ordinary firmness from continuing to engage in that activity"; and (3) Defendants' injurious behavior was "substantially motivated" as a reaction to his constitutionally protected conduct.

Shero v. City of Grove, 510 F.3d 1196, 1203 (10th Cir. 2007). 13. Conspiracy. As to Plaintiff's possible conspiracy claim, Plaintiff "must specifically plead facts tending to show agreement and concerted action." *Beedle v. Wilson*, 422 F.3d 1059, 1073 (10th Cir. 2005) (cleaned up). Plaintiff has not met this responsibility here; vague assertions that multiple people were involved in breaches of civil rights--thus a conspiracy must be involved--are not enough.

Plaintiff must assert more detail to pursue this claim further. 14. Inadequate physical treatment. These are the standards governing such claims: Prison officials must ensure that inmates receive adequate food, clothing, shelter, and medical care. *Farmer v. Brennan*, 511 U.S. 825, 832 (1994). An inmate raising an Eighth Amendment conditions-of-confinement claim must prove both an objective and subjective component associated with the deficiency.

Id. at 834. The objective component requires conditions sufficiently serious so as to (1) deprive an inmate "of the minimal civilized measure of life's necessities" or (2) subject an inmate to "a substantial risk of serious harm." *Shannon v. Graves*, 257 F.3d 1164, 1168 (10th Cir. 2001) (quotation omitted). "The subjective component requires that a defendant prison official have a culpable state of mind, that he or she acts or fails to act with deliberate indifference to inmate health and safety."

Id. To prove deliberate indifference, a prisoner must adduce sufficient facts to show the defendant knew of and disregarded "an excessive risk to inmate health or safety." *Farmer*, 511 U.S. at 837. Under this standard, "the official must both be aware of the facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference."

Id. This high standard for imposing personal liability on prison officials (i.e., the same standard of subjective recklessness used in the criminal law) is necessary to ensure that only those prison officials that inflict punishment are liable for violating the dictates of the Eighth Amendment. *Id.* at 835-45; see also *Self v. Crum*, 439 F.3d 1227, 1232 (10th Cir.

2006) (holding that *Farmer's* "subjective component is not satisfied[] absent an extraordinary degree of neglect"); *Giron v. Corr. Corp. of Am.*, 191 F.3d 1281, 1286 (10th Cir. 1999) (recognizing that *Farmer's* deliberate indifference standard sets out a "stringent standard of fault"). *Brooks v. Colo. Dep't of Corr.*, 12 F.4th 1160, 1173 (10th Cir. 2021). 15. Racial discrimination.

The Tenth Circuit states, To establish a prima facie case of discrimination under § 1981, plaintiff must sufficiently plead that (1) the plaintiff is a member of a protected class; (2) the defendant had the intent to discriminate on the basis of race; and (3) the discrimination interfered with a protected activity as defined in § 1981. *Hale-El v. Doe*, No. 25-1044, -1045, 2025 U.S. App.

LEXIS 15749, at *7-8 (10th Cir. June 25, 2025) (unpublished) (citation modified). Section 1981(a) states, Statement of equal rights. All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

42 U.S.C.S. § 1981(a) (2026). Though these elements "are flexible and not to be applied rigidly," Plaintiff here "has not produced sufficient evidence of intentional discrimination and has not pled details as to any protected activity" regarding any of the defendants. See *Hale-El*, 2025 U.S. App. LEXIS 15749, at *7-8 (citation modified). Further, Plaintiff has not shown membership in a "protected class."

See *id.* at *8. 16. Failure to protect. Here are the standards governing this type of claim: The Eighth Amendment imposes a duty on prison officials to provide humane conditions of confinement, including "reasonable measures to guarantee the safety of the inmates." *Farmer v. Brennan*, 511 U.S. 825, 832 (1994) (quotations omitted). This obligation includes a duty "to protect prisoners from violence at the hands of other prisoners."

Id. at 833 (quotations omitted). "To prevail on a failure to protect claim, an inmate must show (1) that the conditions of his incarceration present[ed] an objective substantial risk of serious harm

and (2) prison officials had subjective knowledge of the risk of harm." *Requena v. Roberts*, 893 F.3d 1195, 1214 (10th Cir. 2018) (quotations omitted).

To satisfy the second prong, the inmate must show that the prison official was deliberately indifferent to the inmate's health or safety. *Farmer*, 511 U.S. at 834. A prison official will not be liable unless he "knows of and disregards an excessive risk to inmate health or safety; the official must both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference."

Id. at 837. *Pittman v. Kahn*, No. 23-1153, 2024 U.S. App. LEXIS 3043, at *3-4 (10th Cir. Feb. 9, 2024) (unpublished). 17. Local governmental entities. The following tenets apply to local governmental liability in a federal civil-rights action: A plaintiff may bring a 42 U.S.C. § 1983 suit for alleged constitutional violations that arise from the policies or practices of a municipal police department.

Typically, if a plaintiff alleges wrongdoing on the part of a municipal police department, the plaintiff must name as a defendant the county, city, or other form of local government that oversees the police department, rather than the police department itself. See, e.g., *Martinez v. Winner*, 771 F.2d 424, 444 (10th Cir. 1985) (dismissing the "City of Denver Police Department" as a defendant because it "is not a separate suable entity" from the City of Denver).

This is because municipal departments, such as police departments, are generally not considered separate legal entities from the local government they serve. *Darby v. Pasadena Police Dep't*, 939 F.2d 311, 313 (5th Cir. 1991) ("In order for a plaintiff to sue a city department, it must 'enjoy a separate legal existence.'" (quoting *Mayes v. Elrod*, 470 F. Supp. 1188, 1192 (N.D.

Ill. 1979))). That is, "unless the true political entity has taken explicit steps to grant the servient agency with jural authority, the agency cannot engage in any litigation except in concert with the government itself." *Id.* "Local governing bodies" overseeing a municipal department "can be sued directly under § 1983" for declaratory and injunctive relief, as well as damages, where "the action that is alleged to be unconstitutional implements or executes" a policy or custom attributable to the municipality.

Monell, 436 U.S. at 690- 91. A policy can include "a policy statement, ordinance, regulation, or decision officially adopted and promulgated by that body's officers." *Id.* at 690. However, a formal policy need not originate from the local government itself; it can be issued by a municipal department or its officials. *Id.* at 694 (holding that a local government is liable "when execution of a government's policy or custom, whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy, inflicts the injury that the government as an entity is responsible under" (emphasis added)).

Monell demonstrates how this works in practice. *Id.* at 660- 61. There, the plaintiffs challenged formal policies of the Department of Social Services and the Board of Education of the city of New York, which at the time required all pregnant employees to take an unpaid leave of absence without regard to medical necessity. *Id.* Those policies were issued by the city's departments, not literally by the city itself, yet the city was still liable for them.

Id. *Brown v. City of Tulsa*, 124 F.4th 1251, 1264-65 (10th Cir. 2025). C. ORDER IT IS HEREBY ORDERED as follows: 1. Plaintiff must within thirty days cure the Complaint's deficiencies noted above by filing a document entitled, "Amended Complaint," that does not refer to or include any other document. Dkt. No. 1. 2.

The Clerk's Office shall mail Plaintiff the Pro Se Litigant Guide with a blank-form civil-rights complaint which Plaintiff must use to pursue an amended complaint. 3. If Plaintiff fails to timely cure the above deficiencies according to this Order's instructions, this action will be dismissed without further notice. 4.

The amended complaint shall not include any claims outside the dates and allegations of transactions and events contained in the Complaint. *Id.* The Court will not address any such new claims or outside allegations, which will be dismissed. If Plaintiff wishes to raise other claims and allegations, Plaintiff may do so only in a new complaint in a new case. If an amended complaint is filed, the Court will screen each claim and defendant for dismissal or an order effecting service upon valid defendants who are affirmatively linked to valid claims.

5. Plaintiff must tell the Court of any address change and timely comply with Court orders. See D. Utah Civ. R. 83-1.6(b) ("An unrepresented party must immediately notify the Clerk's Office in writing of any name, mailing address, or email address changes."). Failure to do so may result in this action's dismissal for failure to prosecute. See Fed. R. Civ. P. 41(b) ("If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it.

Unless the dismissal order states otherwise, a dismissal under this subdivision (b) and any dismissal not under this rule--except one for lack of Jurisdiction, improper venue, or failure to join a party under Rule 19--operates as an adjudication on the merits."). 6. Extensions of time are disfavored, though reasonable extensions may be granted. Any motion for time extension must be filed no later than fourteen days before the deadline to be extended.

7. No direct communication is to take place with any judge. All relevant information, letters, documents, and papers, labeled with case number, are to be directed to the court clerk. 8. Plaintiff must observe this District of Utah local rule: "A party proceeding without an attorney (unrepresented party or pro se party) is obligated to comply with: (1) the Federal Rules of Civil

Procedure; (2) these Local Rules of Practice; (3) the Utah Standards of Professionalism and Civility; and (4) other laws and rules relevant to the action."

DUCivR 83-1.6(a). DATED this 15th day of June, 2026. BY THE COURT: alex ——— Unsted
States District Court 14

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