

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

In re CIM-SQ Transfer Cases

In re CIM-SQ Transfer Cases · No. 5:20-cv-06326-EJD · Decided May 19, 2025

SUMMARY

The United States District Court for the Northern District of California screened a prisoner civil-rights complaint arising from the transfer of inmates from California Institution for Men to San Quentin State Prison during the COVID-19 pandemic. The court dismissed claims against Steven Tharratt because he died before the action was filed and found a cognizable Eighth Amendment deliberate-indifference claim against Kathleen Allison. The court ordered service on Allison and stayed the case for purposes other than service.

CASE DETAILS

COURT	United States District Court for the Northern District of California, San Jose Division
WRITING FOR THE COURT	Edward J. Davila
JURISDICTION	United States District Court for the Northern District of California
DECIDED	May 19, 2025
DOCKET	5:20-cv-06326-EJD
DISPOSITION	other
PROCEDURAL POSTURE	A pro se California prisoner civil-rights complaint was screened under 28 U.S.C. § 1915A(a). The court dismissed claims against Steven Tharatt, found a cognizable Eighth Amendment claim against Kathleen Allison, and ordered service on Allison while staying the consolidated case for all other purposes.
STANDARD OF REVIEW	Under 28 U.S.C. § 1915A(a)-(b), the court must screen a prisoner complaint seeking redress from a governmental entity or employee and dismiss claims that are frivolous, malicious, fail to state a claim, or seek monetary relief from an immune defendant. Pro se pleadings are liberally construed, and a complaint must contain sufficient factual matter to state a plausible claim for relief.
PRECEDENTIAL VALUE	Unknown; district-court order of service

PARTIES

Plaintiff v. Kathleen Allison, Steven Tharatt, CIM Medical Director/Executives, California Department of Corrections and Rehabilitation

TOPICS

prisoners rights

section 1983

service of process

civil procedure

cruel and unusual punishment

PRACTICE AREAS

civil rights

prisoner litigation

civil procedure

constitutional law

QUESTIONS PRESENTED

1. Whether the complaint stated a cognizable Eighth Amendment deliberate-indifference claim against Kathleen Allison.
2. Whether claims could proceed against Steven Tharatt when he died before the action was filed.
3. Whether claims could proceed against unnamed executives who had not been identified.

HOLDINGS

1. Liberally construed, the complaint stated a plausible claim that Kathleen Allison was deliberately indifferent to plaintiff's health and safety needs in violation of the Eighth Amendment.
2. Claims against Steven Tharatt could not proceed because he died before the action was filed, and he was dismissed from the case.
3. Claims against the unnamed executives could not proceed in their present form, although plaintiff could later move to amend to identify additional defendants.

KEY QUOTATIONS

"Federal courts must engage in a preliminary screening of cases in which prisoners seek redress from a governmental entity or officer or employee of a governmental entity." (at 1)

"Liberally construed, plaintiff's allegations state a plausible claim for deliberate indifference to plaintiff's safety against Allison, in violation of the Eighth Amendment." (at 2)

"A party cannot maintain a suit on behalf of, or against, or join, a dead person, or in any other way make a dead person (in that person's own right, and not through a properly represented estate or successor) party to a federal lawsuit." (at 2)

FACTUAL BACKGROUND

Plaintiff, a California prisoner, alleged that defendants transferred more than 100 inmates, some infected with COVID-19, from California Institution for Men to San Quentin State Prison in May 2020. He alleged that the transfer caused a COVID-19 outbreak at San Quentin and that he contracted COVID-19 around May 30, 2020.

He sought damages and named CDCR Secretary Kathleen Allison, CDCR Medical Director Steven Tharatt, and unnamed medical directors or executives as defendants.

PROCEDURAL HISTORY

Plaintiff filed a civil-rights action concerning the transfer of prisoners from California Institution for Men to San Quentin State Prison during the COVID-19 pandemic. The action was consolidated with related prisoner-transfer cases under the lead matter, *In re CIM-SQ Transfer Cases*. The court screened the operative complaint, dismissed Tharatt because he died before the action was filed, declined to proceed against unnamed executives, permitted the claim against Allison to proceed, and ordered service through the CDCR e-service program.

DISPOSITION

other

CASES CITED

- *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1990)
- *Erickson v. Pardus*, 127 S. Ct. 2197, 2200 (2007)
- *Bell Atlantic Corp. v. Twombly*, 127 S. Ct. 1955, 1964-65, 1974 (2007)
- *West v. Atkins*, 487 U.S. 42, 48 (1988)
- *Leadsinger, Inc. v. BMG Music Pub.*, 512 F.3d 522, 532 (9th Cir. 2008)
- *Farmer v. Brennan*, 511 U.S. 825, 837 (1994)
- *Reyn's Pasta Bella, LLC v. Visa USA, Inc.*, 442 F.3d 741, 746 n.6 (9th Cir. 2006)
- *Bullock v. Johnson*, No. CV 15-2070 PA (AS), 2018 WL 5880736, at *13 n.19 (C.D. Cal. Aug. 10, 2018), report and recommendation adopted, No. CV 15-2070 PA (AS), 2018 WL 4791089 (C.D. Cal. Oct. 3, 2018)
- *LN Mgmt., LLC v. JPMorgan Chase Bank, N.A.*, 957 F.3d