

**UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
MICHIGAN, SOUTHERN DIVISION**

Deago Ray Pioterek v. Dale Bonn et al.

No. 1:25-cv-1550 (W.D. Mich. Dec. 2, 2025) · No. 1:25-cv-1550 · Decided December 2, 2025

OPINION

Bonn

PER CURIAM.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEAGO RAY PIOTEREK,

Plaintiff, Case No. 1:25-cv-1550 v. Honorable Hala Y. Jarbou DALE BONN et al., Defendants.

OPINION

This is a civil rights action brought by a state prisoner under 42 U.S.C. § 1983. The Court has granted Plaintiff leave to proceed in forma pauperis in a separate order. Under the Prison Litigation Reform Act, Pub. L. No. 104-134, 110 Stat. 1321 (1996) (PLRA), the Court is required to dismiss any prisoner action brought under federal law if the complaint is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant immune from such relief. 28 U.S.C. §§ 1915(e)(2), 1915A; 42 U.S.C. § 1997e(c). The Court must read Plaintiff's pro se complaint indulgently, see *Haines v. Kerner*, 404 U.S. 519, 520 (1972), and accept Plaintiff's allegations as true, unless they are clearly irrational or wholly incredible. *Denton v. Hernandez*, 504 U.S. 25, 33 (1992). Applying these standards, the Court will dismiss Plaintiff's complaint for failure to state a claim. Discussion Factual Allegations Plaintiff is presently incarcerated with the Michigan Department of Corrections (MDOC) at the Ionia Correctional Facility (ICF) in Ionia, Ionia County, Michigan. The events about which he complains occurred at that facility. Plaintiff sues the following ICF officials in their official and personal capacities: Warden Dale Bonn and Correctional Officers Unknown Lafler and Unknown Allen. (Compl., ECF No. 1, PageID.2.) Plaintiff alleges that on January 28, 2025, he broke the sprinkler in his cell while housed in segregation. (Id., PageID.4.) Plaintiff was pulled out of the cell and placed in the showers while Defendant Allen packed up Plaintiff's property. (Id.) Plaintiff saw Defendant Allen take a clear trash bag full of Plaintiff's property into the officers' breakroom. (Id.) When Plaintiff "got off of combustibles," he was transferred to the Baraga Correctional Facility (AMF). (Id.) When Plaintiff arrived at AMF, he was told that he had "no paper property or segregation

allowables[,] which was false.” (Id.) Plaintiff contends that his property slip from December 1, 2024, will show “just how much property [he] had.” (Id.) Based on the foregoing, Plaintiff suggests that Defendant Allen violated his First Amendment rights, Defendant Lafler violated his Fifth Amendment rights, and that Defendant Bonn “is directly involved because he is the overseer to everything that happens at his facility.” (Id.) Plaintiff seeks \$50,000.00 in damages from each Defendant. (Id., PageID.5.) Failure to State a Claim A complaint may be dismissed for failure to state a claim if it fails “to 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)). While a complaint need not contain detailed factual allegations, a plaintiff’s allegations must include more than labels and conclusions. *Id.*; *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (“Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.”). The court must determine whether the complaint contains “enough facts to state a claim to relief that is plausible on its face.” *Twombly*, 550 U.S. at 570. “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 678. Although the plausibility standard is not equivalent to a “‘probability requirement,’ . . . it asks for more than a sheer possibility that a defendant has acted unlawfully.” *Id.* at 678 (quoting *Twombly*, 550 U.S. at 556). “[W]here the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct, the complaint has alleged—but it has not ‘show[n]’—that the pleader is entitled to relief.” *Id.* at 679 (quoting *Fed. R. Civ. P. 8(a)(2)*); see also *Hill v. Lappin*, 630 F.3d 468, 470–71 (6th Cir. 2010) (holding that the *Twombly/Iqbal* plausibility standard applies to dismissals of prisoner cases on initial review under 28 U.S.C. §§ 1915A(b)(1) and 1915(e)(2)(B)(ii)). To state a claim under 42 U.S.C. § 1983, a plaintiff must allege the violation of a right secured by the federal Constitution or laws and must show that the deprivation was committed by a person acting under color of state law. *West v. Atkins*, 487 U.S. 42, 48 (1988); *Street v. Corr. Corp. of Am.*, 102 F.3d 810, 814 (6th Cir. 1996). Because § 1983 is a method for vindicating federal rights, not a source of substantive rights itself, the first step in an action under § 1983 is to identify the specific constitutional right allegedly infringed. *Albright v. Oliver*, 510 U.S. 266, 271 (1994).

A. Official Capacity Claims As set forth above, Plaintiff sues Defendants in their official and personal capacities. (Compl., ECF No. 1, PageID.2.) A suit against an individual in his or her official capacity is equivalent to a suit against the governmental entity; in this case, the MDOC. See *Will v. Mich. Dep’t of State Police*, 491 U.S. 58, 71 (1989); *Matthews v. Jones*, 35 F.3d 1046, 1049 (6th Cir. 1994). The states and their departments are immune under the Eleventh Amendment from suit in the federal courts, unless the state has waived immunity, or Congress has expressly abrogated Eleventh Amendment immunity by statute. See *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 98–101 (1984); *Alabama v. Pugh*, 438 U.S. 781, 782 (1978); *O’Hara*

v. Wigginton, 24 F.3d 823, 826 (6th Cir. 1994). Congress has not expressly abrogated Eleventh Amendment immunity by statute, *Quern v. Jordan*, 440 U.S. 332, 341 (1979), and the State of Michigan has not consented to civil rights suits in federal court. *Abick v. Michigan*, 803 F.2d 874, 877 (6th Cir. 1986). Moreover, the State of Michigan (acting through the MDOC) is not a “person” who may be sued under § 1983 for money damages. See *Lapides v. Bd. of Regents*, 535 U.S. 613, 617 (2002) (citing *Will*, 491 U.S. at 66). Here, Plaintiff only seeks monetary damages. (Compl., ECF No. 1, PageID.5.) However, the MDOC is not a “person” who may be sued under § 1983 for money damages. Similarly, Plaintiff may not seek monetary damages against Defendants in their respective official capacities. *Will*, 491 U.S. at 71 (“We hold that neither a State nor its officials acting in their official capacities are “persons” under § 1983.”). Accordingly, the Court will dismiss Plaintiff’s official capacity claims against Defendants for failure to state a claim upon which relief can be granted. B. Personal Capacity Claims

1. Claims Against Defendant Bonn

As set forth above, Plaintiff seeks to hold Defendant Bonn liable “because he is the overseer to everything that happens at his facility.” (Compl., ECF No. 1, PageID.4.) Government officials, however, may not be held liable for the unconstitutional conduct of their subordinates under a theory of respondeat superior or vicarious liability. *Iqbal*, 556 U.S. at 676; *Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658, 691 (1978); *Everson v. Leis*, 556 F.3d 484, 495 (6th Cir. 2009). The acts of one’s subordinates are not enough, nor can supervisory liability be based upon the mere failure to act. See *Grinter v. Knight*, 532 F.3d 567, 576 (6th Cir. 2008); *Greene v. Barber*, 310 F.3d 889, 899 (6th Cir. 2002); *Summers v. Leis*, 368 F.3d 881, 888 (6th Cir. 2004). Moreover, § 1983 liability may not be imposed simply because a supervisor denied an administrative grievance or failed to act based upon information contained in a grievance. See *Shehee v. Luttrell*, 199 F.3d 295, 300 (6th Cir. 1999). “[A] plaintiff must plead that each Government-official defendant, through the official’s own individual actions, has violated the Constitution.” *Iqbal*, 556 U.S. at 676. The Sixth Circuit repeatedly has summarized the minimum required to constitute active conduct by a supervisory official: “[A] supervisory official’s failure to supervise, control or train the offending individual is not actionable unless the supervisor either encouraged the specific incident of misconduct or in some other way directly participated in it.” *Shehee*, 199 F.3d at 300 (emphasis added) (internal quotation marks omitted). We have interpreted this standard to mean that “at a minimum,” the plaintiff must show that the defendant “at least implicitly authorized, approved, or knowingly acquiesced in the unconstitutional conduct of the offending officers.” *Peatross v. City of Memphis*, 818 F.3d 233, 242 (6th Cir. 2016) (quoting *Shehee*, 199 F.3d at 300); see also *Copeland v. Machulis*, 57 F.3d 476, 481 (6th Cir. 1995); *Walton v. City of Southfield*, 995 F.2d 1331, 1340 (6th Cir. 1993). Here, Plaintiff fails to allege facts suggesting that Defendant Bonn encouraged or condoned the conduct of the other Defendants, or authorized, approved, or knowingly acquiesced in that conduct. Thus, Plaintiff has not alleged that Defendant Bonn “either encouraged the specific incident[s] of misconduct or in some other way directly participated in

[them].” Peatross, 818 F.3d at 242 (quoting Shehee, 199 F.3d at 300). Accordingly, Plaintiff’s claims against Defendant Bonn will be dismissed for failure to state a claim upon which relief can be granted.

2. Claim Against Defendant Allen

Plaintiff suggests that Defendant Allen packed up Plaintiff’s property in violation of Plaintiff’s First Amendment rights because Plaintiff broke his sprinkler. (Compl., ECF No. 1, PageID.4.) The Court construes Plaintiff’s complaint to assert a First Amendment retaliation claim against Defendant Allen. Retaliation based upon a prisoner’s exercise of his or her constitutional rights violates the Constitution. See *Thaddeus-X v. Blatter*, 175 F.3d 378, 394 (6th Cir. 1999) (en banc). In order to set forth a First Amendment retaliation claim, a plaintiff must establish three elements: (1) he was engaged in protected conduct; (2) an adverse action was taken against him that would deter a person of ordinary firmness from engaging in that conduct; and (3) the adverse action was motivated, at least in part, by the protected conduct. *Id.* Moreover, a plaintiff must be able to prove that the exercise of the protected right was a substantial or motivating factor in the defendant’s alleged retaliatory conduct. See *Smith v. Campbell*, 250 F.3d 1032, 1037 (6th Cir. 2001) (citing *Mount Healthy City Sch. Dist. Bd. of Educ. v. Doyle*, 429 U.S. 274, 287 (1977)). As set forth above, Plaintiff freely admits that he broke the sprinkler in his cell. Destruction or misuse of property is a Class II misconduct within the MDOC. See MDOC Policy Directive 03.03.105, Attach. B (eff. Mar. 17, 2025). “[I]f a prisoner violates a legitimate prison regulation, he is not engaged in ‘protected conduct,’ and cannot proceed beyond step one.” *Thaddeus-X*, 175 F.3d at 395; see also *Lockett v. Suardini*, 526 F.3d 866, 874 (6th Cir. 2008) (concluding that prisoner’s statement that a hearing officer was “a foul and corrupted bitch” was insulting, derogatory, and questioned her authority as well as the integrity of the proceeding was insolent and violated an MDOC policy directive and, thus, could not be protected conduct); *Caffey v. Maue*, 679 F. App’x 487 (7th Cir. 2017) (holding that an inmate’s name-calling of guards (calling them unprofessional) was a challenge to the guards’ authority that was not protected by the First Amendment). Thus, because Defendant Allen packed up Plaintiff’s property in response to Plaintiff’s misconduct, Plaintiff’s complaint is devoid of facts suggesting that Defendant Allen retaliated against Plaintiff for any protected conduct in which he was engaged. Accordingly, Plaintiff’s First Amendment claim against Defendant Allen will be dismissed.

3. Claim Against Defendant Lafler

Plaintiff contends that Defendant Lafler violated his Fifth Amendment rights due to their mishandling of his property. (Compl., ECF No. 1, PageID.4.) The Fifth Amendment, however, applies only to claims against federal employees. In this action, Plaintiff sues state actors. Plaintiff, therefore, cannot maintain his Fifth Amendment claims, and those claims will be dismissed. See, e.g., *Scott v. Clay Cnty., Tenn.*, 205 F.3d 867, 873 n.8 (6th Cir. 2000) (noting that “[t]he Fourteenth Amendment’s Due Process Clause restricts the activities of the states and their instrumentalities; whereas the Fifth Amendment’s Due Process Clause circumscribes only the

actions of the federal government”). The Court will generously construe Plaintiff’s complaint to assert Fourteenth Amendment due process claims against Defendants Lafler and Allen based upon their mishandling of Plaintiff’s property. Any such claims, however, are barred by the doctrine of *Parratt v. Taylor*, 451 U.S. 527

(1981), overruled in part by *Daniels v. Williams*, 474 U.S. 327 (1986). Under *Parratt*, a person deprived of property by a “random and unauthorized act of a state employee,” *id.* at 541, including “the unauthorized failure of agents of the State to follow established state procedure,” *id.* at 543, has “not alleged a violation of the Due Process Clause of the Fourteenth Amendment,” *id.*, where “[t]he [s]tate provides a remedy to persons who believe they have suffered a tortious loss at the hands of the [s]tate,” *id.*, and the state “remedies provided could have fully compensated the [plaintiff] for the . . . loss he suffered...they [can be] sufficient to satisfy the requirements of due process,” *id.* at 544. Where the state provides such a post-deprivation remedy, the plaintiff must plead and prove the inadequacy of the remedy. See *Copeland v. Machulis*, 57 F.3d 476, 479 (6th Cir. 1995) (explaining that “a procedural due process claim will not be stated unless the plaintiff pleads and proves that his available state remedies are inadequate to redress the wrong”). Plaintiff has not alleged that state post-deprivation remedies are inadequate. Moreover, state post-deprivation remedies are available to him. Michigan law authorizes actions in the Court of Claims asserting “any claim or demand, statutory or constitutional, liquidated or unliquidated, ex contractu or ex delicto, or any demand for monetary, equitable, or declaratory relief or any demand for an extraordinary writ against the state or any of its departments or officers.” See Mich. Comp. Laws § 600.6419(1)(a). The Sixth Circuit has held that Michigan provides adequate post-deprivation remedies for deprivation of liberty or property. See *Copeland*, 57 F.3d at 480. Plaintiff does not allege any reason why a state-court action would not afford him complete relief for the deprivation he suffered, either negligent or intentional, of his property. Accordingly, for the foregoing reasons, the Court will dismiss Plaintiff’s claims against Defendants Lafler and Allen for failure to state a claim upon which relief can be granted. Conclusion Having conducted the review required by the Prison Litigation Reform Act, the Court determines that Plaintiff’s complaint will be dismissed for failure to state a claim, under 28 U.S.C. §§ 1915(e)(2) and 1915A(b), and 42 U.S.C. § 1997e(c). The Court must next decide whether an appeal of this action would be in good faith within the meaning of 28 U.S.C. § 1915(a)(3). See *McGore v. Wigglesworth*, 114 F.3d 601, 611 (6th Cir. 1997). For the same reasons the Court concludes that Plaintiff’s claims are properly dismissed, the Court also concludes that any issue Plaintiff might raise on appeal would be frivolous. *Coppedge v. United States*, 369 U.S. 438, 445 (1962). Accordingly, the Court certifies that an appeal would not be taken in good faith. A judgment consistent with this opinion will be entered. Dated: December 2, 2025 /s/ Hala Y. Jarbou

HALA Y. JARBOU

CHIEF UNITED STATES DISTRICT JUDGE

