

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA

Jorbert Benjamin Polty v. Melisa Goldstein, et al.

Case No. 3:26-cv-000157-SLG (D. Alaska May 12, 2026) · No. 3:26-cv-000157-SLG · Decided May 12, 2026

SUMMARY

The United States District Court for the District of Alaska dismisses Jorbert Benjamin Polty’s civil rights action against his appointed defense attorney and the Public Defender Agency. The court holds that defense counsel did not act under color of state law, and that ineffective-assistance, requests for new counsel, and related state-law claims cannot proceed in this action. The dismissal is without leave to amend and counts as a strike under 28 U.S.C. § 1915(g).

CASE DETAILS

COURT	United States District Court for the District of Alaska
WRITING FOR THE COURT	Sharon L. Gleason
JURISDICTION	United States District Court for the District of Alaska
DECIDED	May 12, 2026
DOCKET	3:26-cv-000157-SLG
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court screened a self-represented prisoner's civil rights complaint under 28 U.S.C. §§ 1915(e) and 1915A and dismissed it without leave to amend.
STANDARD OF REVIEW	Statutory screening under 28 U.S.C. §§ 1915(e)(2)(B) and 1915A; dismissal is required when the complaint is frivolous or malicious, fails to state a claim, or seeks monetary relief from an immune defendant.
PRECEDENTIAL VALUE	unpublished
PARTIES	Jorbert Benjamin Polty v. Melisa Goldstein, Public Defender Agency

TOPICS

- prisoners rights
- section 1983
- federal habeas corpus
- post-conviction relief
- civil procedure

PRACTICE AREAS

- Civil rights
- Prisoner litigation
- Federal jurisdiction
- Criminal procedure
- Post-conviction relief

QUESTIONS PRESENTED

1. Whether claims against an appointed criminal defense attorney and the Public Defender Agency are actionable under 42 U.S.C. § 1983 when based on counsel's traditional functions as criminal defense counsel.
2. Whether claims for ineffective assistance of counsel or appointment of new counsel may be pursued in a § 1983 civil rights action.
3. Whether the asserted state-law claims could proceed in federal court through supplemental or diversity jurisdiction.
4. Whether the complaint should be dismissed without leave to amend because amendment would be futile.
5. Whether the dismissal qualifies as a strike under 28 U.S.C. § 1915(g).

HOLDINGS

1. Criminal defense attorneys, whether retained or appointed, do not act under color of state law when performing their traditional functions as defense counsel; therefore, Plaintiff's claims against Attorney Goldstein and the Public Defender Agency were not cognizable under § 1983.
2. Claims alleging ineffective assistance of counsel or seeking a new defense attorney must be raised in the state criminal case, through state post-conviction relief, or through a federal habeas petition after available state remedies have been exhausted; they cannot be brought in a civil rights action.
3. The intentional-infliction-of-emotional-distress and legal-malpractice claims could not proceed because there was no cognizable federal claim for supplemental jurisdiction and the complaint did not satisfy diversity jurisdiction.
4. The complaint was dismissed without leave to amend because amendment would be futile.
5. The dismissal for failure to state a plausible claim counts as a strike under 28 U.S.C. § 1915(g).

KEY QUOTATIONS

“criminal defense attorneys, whether retained or appointed, do not act under color of state law when performing their traditional functions as defense counsel.” (Discussion)

“This dismissal counts as a “strike” under 28 U.S.C. § 1915(g), which may limit Plaintiff’s ability to bring future civil rights cases in federal court.” (Order ¶ 2)

FACTUAL BACKGROUND

Jorbert Benjamin Polty, a self-represented prisoner, sued his appointed criminal defense attorney, Melisa Goldstein, and the Public Defender Agency. He alleged that Goldstein had failed to communicate with him for several weeks while representing him in ongoing state criminal proceedings. He also appeared to seek relief related to ineffective assistance of counsel, appointment of new counsel, intentional infliction of emotional distress, and legal malpractice.

PROCEDURAL HISTORY

Plaintiff filed a civil rights action against his appointed criminal defense attorney and the Public Defender Agency, alleging that counsel failed to communicate with him during ongoing state criminal proceedings. After screening the complaint under the Prison Litigation Reform Act, the court concluded that the federal claims were not cognizable under § 1983, that the state-law claims lacked an available jurisdictional basis, and that amendment would be futile. The court dismissed the action, assessed a strike under 28 U.S.C. § 1915(g), denied pending motions as moot, and directed the Clerk to enter final judgment and close the case.

DISPOSITION

dismissed

CASES CITED

- Karim-Panahi v. Los Angeles Police Dep't, 839 F.2d 621, 623 (9th Cir. 1988)
- Noll v. Carlson, 809 F.2d 1446, 1448 (9th Cir. 1987)
- Schreiber Distributing Co. v. Serv-Well Furniture Co., 806 F.2d 1393, 1401 (9th Cir. 1986)
- Miranda v. Clark County, Nevada, 319 F.3d 465 (9th Cir. 2003)
- Polk County v. Dodson, 454 U.S. 312, 325 (1981)
- Huffman v. Lindgren, 81 F.4th 1016 (9th Cir. 2023)
- Jones v. Bock, 549 U.S. 199, 204 (2007)
- Ray v. Lara, 31 F.4th 692, 701 (9th Cir. 2022)
- Andrews v. Cervantes, 493 F.3d 1047, 1056 (9th Cir. 2007)
- Andrews v. Cervantes, 493 F.3d 1047, 1053 (9th Cir. 2007)