

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Polk v. Jennie Clay, et al.

Polk · No. 24-cv-08712-TLT · Decided September 25, 2025

SUMMARY

The United States District Court for the Northern District of California dismissed Elvin Polk’s First Amended Complaint without leave to amend. The court concluded that Polk had not cured deficiencies concerning his status, alleged property deprivation, individual defendants’ conduct, and asserted constitutional violations. The court directed the Clerk to enter judgment for the defendants and close the case.

CASE DETAILS

COURT	United States District Court for the Northern District of California
JURISDICTION	United States District Court for the Northern District of California
DECIDED	September 25, 2025
DOCKET	24-cv-08712-TLT
DISPOSITION	dismissed
PROCEDURAL POSTURE	Pro se plaintiff brought a civil-rights action under 42 U.S.C. § 1983. After the original complaint was dismissed with leave to amend, the court screened the First Amended Complaint and dismissed the action without leave to amend.
STANDARD OF REVIEW	Mandatory preliminary screening under 28 U.S.C. § 1915A; the court determines whether the complaint is frivolous, malicious, fails to state a claim, or seeks monetary relief from an immune defendant. The pleading is liberally construed because plaintiff is proceeding pro se, but it must satisfy Federal Rule of Civil Procedure 8(a)(2) and state a plausible claim for relief.
PRECEDENTIAL VALUE	Unpublished district-court order; precedential status not identified
PARTIES	Elvin Polk v. Jennie Clay, Mark Rohlena, Jan Thnay, Peter U.S., Nomer

TOPICS

- section 1983
- due process
- pleadings
- civil procedure

PRACTICE AREAS

Civil procedure

Civil rights

Prisoner litigation

Constitutional law

QUESTIONS PRESENTED

1. Whether the First Amended Complaint stated a cognizable claim under 42 U.S.C. § 1983.
2. Whether the alleged random and unauthorized deprivation of property stated a federal due-process claim.
3. Whether plaintiff adequately alleged specific unconstitutional acts by each defendant and otherwise satisfied the pleading requirements.
4. Whether further leave to amend should be granted.

HOLDINGS

1. The First Amended Complaint failed to state a claim under § 1983 because it did not adequately allege a violation of a federal right by each defendant acting under color of state law.
2. The alleged random and unauthorized deprivation of plaintiff's property did not state a federal due-process claim because plaintiff may pursue a state tort action.
3. Further leave to amend was denied because amendment would be futile.

KEY QUOTATIONS

“To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential elements: (1) that a right secured by the Constitution or laws of the United States was violated, and (2) that the alleged violation was committed by a person acting under the color of state law.” (p. 1)

“A complaint must proffer “enough facts to state a claim to relief that is plausible on its face.”” (p. 1)

“Because it appears that further amendment would be futile, his claims are dismissed without leave to amend.” (p. 2)

FACTUAL BACKGROUND

Plaintiff was confined at Napa State Hospital and alleged that hospital staff illegally searched and seized property on October 9 and December 12, 2024. He also alleged that his legal mail was opened on January 15, 2025 and that defendants tampered with evidence. The First Amended Complaint named Mark Rohlena, Jennie Clay, Jan Thnay, Peter U.S., and Nomer, and included more than 650 pages of documents consisting largely of jokes, games, drawings, invention notes, and religious content.

PROCEDURAL HISTORY

Polk filed a § 1983 complaint concerning alleged searches, seizures, opening of legal mail, evidence tampering, and property deprivation at Napa State Hospital. The court previously dismissed the complaint with leave to amend. After reviewing the First Amended Complaint, the court concluded that the identified deficiencies

remained and that further amendment would be futile, so it dismissed the action without leave to amend and directed the Clerk to enter judgment and close the file.

DISPOSITION

dismissed

CASES CITED

- United States v. Qazi, 975 F.3d 989, 993 (9th Cir. 2020)
- Erickson v. Pardus, 551 U.S. 89, 93 (2007)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 570 (2007)
- West v. Atkins, 487 U.S. 42, 48 (1988)
- Leadsinger, Inc. v. BMG Music Pub., 512 F.3d 522, 532 (9th Cir. 2008)

OPINION

1 2 3 4 UNITED STATES DISTRICT COURT 5 NORTHERN DISTRICT OF CALIFORNIA 6 7
ELVIN POLK, Case No. 24-cv-08712-TLT 8 Plaintiff, ORDER OF DISMISSAL v. 9 10 JENNIE
CLAY, et al., Defendants. 11 12 13 Plaintiff, who is confined at Napa State Hospital and is
proceeding pro se, filed a civil 14 rights complaint under 42 U.S.C. § 1983 regarding the taking of
some of his property by hospital 15 staff members on December 12, 2024.

The complaint was dismissed with leave to amend, and 16 plaintiff's First Amended Complaint
(FAC) is now before the Court for screening. Dkt. No. 23. 17 For the reasons identified below, the
complaint is dismissed without leave to amend. 18 A. Standard of Review 19 A federal court must
conduct a preliminary screening in any case in which a prisoner seeks 20 redress from a
governmental entity or officer or employee of a governmental entity.

See 28 U.S.C. 21 § 1915A(a). In its review, the court must identify any cognizable claims and
dismiss any claims 22 that are frivolous, malicious, fail to state a claim upon which relief may be
granted or seek 23 monetary relief from a defendant who is immune from such relief. See 28
U.S.C. § 1915A(b)(1), 24 (2). Pro se pleadings must, however, be liberally construed.

See United States v. Qazi, 975 F.3d 25 989, 993 (9th Cir. 2020). 26 Federal Rule of Civil
Procedure 8(a)(2) requires only "a short and plain statement of the 27 claim showing that the
pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). "Specific facts are not 1 grounds upon which it
rests." Erickson v. Pardus, 551 U.S. 89, 93 (2007) (citations omitted).

2 "[A] plaintiff's obligation to provide the 'grounds' of his 'entitle[ment] to relief' requires more 3
than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not
4 do.... Factual allegations must be enough to raise a right to relief above the speculative level." 5
Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007) (citations omitted).

A complaint must 6 proffer “enough facts to state a claim to relief that is plausible on its face.” *Id.* at 570. All or part 7 of a complaint filed by a prisoner may be dismissed sua sponte if the prisoner’s claims lack an 8 arguable basis in either law or in fact. 9 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential elements: (1) 10 that a right secured by the Constitution or laws of the United States was violated, and (2) that the 11 alleged violation was committed by a person acting under the color of state law.

See *West v. 12 Atkins*, 487 U.S. 42, 48 (1988). 13 If a court dismisses a complaint for failure to state a claim, it should “freely give 14 leave” to amend “when justice so requires.” Fed. R. Civ. P. 15(a)(2). A court has discretion to 15 deny leave to amend due to “undue delay, bad faith or dilatory motive on the part of the movant, 16 repeated failure to cure deficiencies by amendment previously allowed undue prejudice to the 17 opposing party by virtue of allowance of the amendment, [and] futility of amendment.” 18 *Leadsinger, Inc. v. BMG Music Pub.*, 512 F.3d 522, 532 (9th Cir.

2008). 19 B. Plaintiff’s FAC 20 Plaintiff’s FAC names Mark Rohlena, Jennie Clay, Jan Thnay, Peter U.S., and Nomer as 21 defendants. He alleges illegal search and seizures on October 9 and December 12, 2024, that his 22 legal mail was opened on January 15, 2025, and that “they all so tamper with evidences.” He 23 alleges defendants were aware of his lawsuit with Case No. 24-cv-8712.

But the current case is 24 Case No. 24-cv-8712, so it is not possible that staff knew of this lawsuit before the searches that 25 plaintiff complains about in this lawsuit. 26 Plaintiff has not addressed the deficiencies identified in the Court’s prior order. He has not 27 explained whether he is a civil detainee or prisoner. He has not alleged facts showing that the 1 has alleged random and unauthorized deprivation of his property, which does not state a due 2 || process claim because he may bring a state tort action.

He has not explained how each defendant 3 took specific acts or failed to act in ways that violated his constitutional rights. He has filed over 4 650 pages of documents that appear to be jokes, games, drawings, invention notes, and religious 5 || content, none of which turns his claim into a cognizable one.

Because it appears that further 6 amendment would be futile, his claims are dismissed without leave to amend. 7 **CONCLUSION** 8 The action is dismissed without leave to amend. The Clerk shall enter judgment for the 9 defendants and close the file. 10 **IT IS SO ORDERED.** Dated: 11 September 25, 2025 TRINA ON 13 United States District Judge © 15 16 = 17 Z 18 19 20 21 22 23 24 25 26 27 28