

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Thomas Allen Chavez v. Unknown Cota, et al.

No. CV-25-00419-TUC-JCH (P) (D. Ariz. Jan. 9, 2026) · No. No. CV-25-00419-TUC-JCH (P); 4:25-cv-00419 ·

Decided January 9, 2026

OPINION

1 WO 2 3 4 5 6 IN THE UNITED STATES DISTRICT COURT 7 FOR THE DISTRICT OF
ARIZONA 8 9 Thomas Allen Chavez, No. CV-25-00419-TUC-JCH (P) 10 Plaintiff, ORDER 11 v.
12 Unknown Cota, et al., 13 Defendants. 14 15 Before the Court is pro se Plaintiff's Application
for Leave to Proceed In Forma 16 Pauperis (Doc. 10).

The Court will also screen Plaintiff's Complaint under 28 U.S.C. 17 § 1915(e)(2)(B). For the
following reasons, the Court will grant Plaintiff's Application 18 (Doc. 10) and dismiss Plaintiff's
Complaint. 19 I. Application for Leave to Proceed in Forma Pauperis (Doc. 10) 20 In his
Application for Leave to Proceed in Forma Pauperis, Plaintiff asserts that he 21 is unable to pay
the filing fees and costs because he is living in intensive outpatient housing, 22 is unemployed,
and has mental health issues.

Plaintiff asserts he has no money in any bank 23 account or financial institution and owns no
assets. The Court is persuaded that Plaintiff 24 cannot afford the costs associated with filing suit
and will grant Plaintiff in forma pauperis 25 ("IFP") status. 26.... 27.... 28 1 II. Statutory Screening
of a Pro Se Complaint 2 A. Legal Standard 3 The Court must screen IFP complaints and under §
1915(e)(2) and dismiss the case 4 if the Court determines the action "(i) is frivolous or malicious;
(ii) fails to state a claim on 5 which relief may be granted; or (iii) seeks monetary relief against a
defendant who is 6 immune from such relief." 7 A pleading must contain a "short and plain
statement of the claim showing that the 8 pleader is entitled to relief." Fed.

R. Civ. P. 8(a)(2) (emphasis added). While Rule 8 does 9 not require detailed factual allegations,
"it demands more than an unadorned, 10 the-defendant-unlawfully-harmed-me accusation."
Ashcroft v. Iqbal, 556 U.S. 662, 678 11 (2009). Conclusory and vague allegations will not support
a cause of action. Ivey v. Bd. of 12 Regents, 673 F.2d 266, 268 (9th Cir. 1982).

Instead, "a complaint must contain sufficient 13 factual matter, accepted as true, to 'state a claim
to relief that is plausible on its face.'" Iqbal, 566 at 678 (quoting Bell Atlantic Corp. v. Twombly,
550 U.S. 544, 570 (2007)). A 14 claim is plausible "when the plaintiff pleads factual content that
allows the court to draw 15 the reasonable inference that the defendant is liable for the misconduct
alleged." Id. 16 Determining whether a claim is plausible is "a context-specific task that requires
the 17 reviewing court to draw on its judicial experience and common sense." Id. at 679.

18 Still, the Court must “construe pro se filings liberally.” *Hebbe v. Pliler*, 627 F.3d 19 338, 342 (9th Cir. 2010). A pro se complaint “must be held to less stringent standards than 20 formal pleadings drafted by lawyers.” *Id.* (quoting *Erickson v. Pardus*, 551 U.S. 89, 94 21 (2007) (per curiam)). If the Court determines a complaint could be cured by the allegation 22 of additional facts, a pro se litigant is entitled to an opportunity to amend that complaint 23 before dismissal of the action.

See *Lopez v. Smith*, 203 F.3d 1122, 1127–29 (9th Cir. 2000) 24 (en banc). 25 B. The Complaint 26 The two-count Complaint alleges violations under 42 U.S.C. § 1983 against 27 Defendants Unknown Cota and Chris Nanos, in his capacity as the acting Sheriff at the 28 Pima County Adult Detention Center. (Doc. 1 at 1–2).

In Count One, Plaintiff alleges he 1 suffered head injuries from Unknown Cota using excessive force against him, punching 2 him in the head multiple times, lifting him up by his cuffed hands, and slamming his face 3 into a stairwell. (*Id.* at 3.)

In Count Two, Plaintiff alleges a threat to his safety occurred 4 when he was placed back in the same pod with an inmate he was assaulted by, which the 5 Court construes as a failure-to-protect claim. (*Id.* at 4.) The Complaint seeks monetary 6 damages and injunctive relief. (*Id.* at 6.) 7 Section 1983 “merely provides a cause of action... to state a violation of [an] 8 underlying constitutional right.” *Farmer v. Brennan*, 511 U.S. 825, 841 (1994).

Because 9 Plaintiff was incarcerated at the time of the alleged actions, the Court will construe his 10 claims as violations of his Eighth Amendment rights. See *Whitley v. Albers*, 475 U.S. 312, 11 318–19 (1986). 12 i. Count One 13 The Eighth Amendment’s prohibition on “cruel and unusual punishments” manifests “an intention to limit the power of those entrusted with the criminal-law function 14 of government.” *Whitley v. Albers*, 475 U.S. 312, 318 (1986) (quoting *Ingraham v. Wright*, 15 430 U.S. 651, 664 (1977)). “After incarceration, only the unnecessary and wanton infliction 16 of pain... constitutes cruel and unusual punishment forbidden by the Eighth 17 Amendment.” *Id.* at 319 (quoting *Ingraham*, 430 U.S. at 670).

Thus, to prevail on his 18 excessive force claim, Plaintiff must show (1) the defendants used force against him; 19 (2) the use of such force was excessive and applied maliciously and sadistically for the 20 very purpose of causing him harm and not in a good faith effort to achieve a legitimate 21 purpose; and (3) he suffered harm as a direct result of this use of force.

Hudson v. 22 *McMillian*, 503 U.S. 1, 6–7 (1992). 23 But Plaintiff does not provide the Court with any factual context showing that the 24 force used was applied maliciously and sadistically and not to achieve a legitimate purpose. 25 Even construing the Complaint liberally, Plaintiff has failed to adequately state an Eighth 26 Amendment excessive force claim against Defendant Unknown Cota.

Should Plaintiff 27 choose to amend his Complaint and include this claim, he should give the Court more 28 factual context, including his own behavior leading up to the alleged force. 1 ii. Count Two 2 The Eighth Amendment imposes a duty on prison officials to “take reasonable 3 measures to guarantee the safety of the inmates.” *Farmer v. Brennan*, 511 U.S. 825, 832 4 (1994) (quoting *Hudson v. Palmer*, 468 U.S. 517, 526–527 (1984)).

To state an Eighth 5 Amendment failure-to-protect claim, plaintiffs must meet a two-part test. “First, the 6 deprivation alleged must be, objectively, sufficiently serious” such that the “official’s act 7 or omission must result in the denial of the minimal civilized measure of life’s necessities.” 8 *Id.* at 834 (1994) (internal quotations omitted).

Second, the prison official must have a 9 “sufficiently culpable state of mind,” i.e., he must act with “deliberate indifference to 10 inmate health or safety.” *Id.* (internal quotations omitted). Deliberate indifference is a 11 higher standard than negligence or lack of ordinary due care for the prisoner’s safety. *Id.* 12 at 835.

In defining “deliberate indifference” in this context, the Supreme Court has imposed 13 a subjective test: “the official must both be aware of facts from which the inference could 14 be drawn that a substantial risk of serious harm exists, and he must also draw the inference.” *Id.* at 837 (emphasis added). 15 Plaintiff does not specify which Defendant this claim is against.

He does not allege 16 facts supporting that an official’s act or omission resulted in the denial of “the minimal 17 civilized measure of life’s necessities.” See *id.* at 834. Nor does Plaintiff allege how or 18 when he made a prison official aware of the threat to his safety from the other inmate and 19 therefore does not allege either Defendant was actually aware of a risk to Plaintiff’s safety 20 but failed to act.

See *id.* at 835. As such, the Court will dismiss Count Two. Should Plaintiff 21 choose to amend his Complaint and include this claim, he should provide additional factual 22 context, more thoroughly describing the alleged safety risk and directly connecting a 23 named defendant’s acts or omissions to the alleged safety risk. 24 C. Leave to Amend 25 For the foregoing reasons, the Court will dismiss all counts and Defendants without 26 prejudice.

Within 30 days, Plaintiff may submit a first amended complaint to cure the 27 deficiencies outlined above. The first amended complaint must be retyped or rewritten in 28 its entirety, and no part of the original Complaint may be incorporated by reference. Any! | cause of action raised in the original Complaint is waived if not alleged in the first amended 2|| complaint.

See *Lacey vy. Maricopa County*, 693 F.3d 896, 928 (9th Cir. 2012) (en banc). 3|| TI. Warnings 4 Plaintiff must file and serve a notice of a change of address in accordance with || LRCiv. 83.3(d). Plaintiff must not include a motion for other relief with a notice of change || of address. Failure to comply may result in dismissal of this action. 7 If Plaintiff fails to timely comply with every

provision of this Order, including these 8 || warnings, the Court may dismiss this action without further notice.

See *Ferdik v. Bonzelet*, 9|| 963 F.2d 1258, 1260-61 (9th Cir. 1992) (a district court may dismiss an action for failure 10 || to comply with any order of the Court). IV. Order 12 IT IS ORDERED granting Plaintiff's Application for Leave to Proceed In Forma 13 || Pauperis (Doc. 10). 14 IT IS FURTHER ORDERED dismissing without prejudice the Complaint (Doc. 15|| 1).

Plaintiff has 30 days from the date of filing of this Order to file a first amended 16 complaint. If Plaintiff fails to file an amended complaint within 30 days, the Clerk of Court || must enter a judgment of dismissal of this action, without prejudice and without further 18 notice to Plaintiff and deny any pending unrelated motions as moot. 19 Dated this 9th day of January, 2026.

20 22 73 / / John C. Hinderaker _/United States District Judge 24 25 26 27 28 -5-