

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Terry Sharp v. Deputy Smith, et al.

Sharp v. Smith · No. No. 2:24-cv-2866 WBS CSK P · Decided November 3, 2025

SUMMARY

The United States District Court for the Eastern District of California grants Terry Sharp leave to file a third amended complaint and vacates its prior findings and recommendations concerning the second amended complaint. On screening under 28 U.S.C. § 1915A, the court finds potentially colorable Fourteenth Amendment medical-care claims against several individual defendants and a First Amendment communication claim against Doe defendants, while recommending dismissal of the plaintiff’s claims against Sacramento County for insufficiently pleaded municipal liability. The order also addresses retaliation claims and provides a procedure for identifying the Doe defendants.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Chi Soo Kim
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	November 3, 2025
DOCKET	No. 2:24-cv-2866 WBS CSK P
DISPOSITION	other
PROCEDURAL POSTURE	Prisoner civil-rights action under 42 U.S.C. § 1983; the magistrate judge granted leave to file a third amended complaint, screened that complaint under 28 U.S.C. § 1915A, and issued findings and recommendations concerning dismissal of certain claims.
STANDARD OF REVIEW	On screening under 28 U.S.C. § 1915A, the court determines whether claims are frivolous or malicious, fail to state a claim, or seek monetary relief from an immune defendant. For pleading sufficiency, the complaint must provide a short and plain statement giving fair notice and contain factual allegations sufficient to raise the right to relief above the speculative level. The court accepts well-pleaded allegations as true and construes the complaint in the light most favorable to the plaintiff. Motions to amend are evaluated under the liberal standard of Federal Rule of Civil Procedure 15(a)(2).

PRECEDENTIAL VALUE	nonprecedential
PARTIES	Terry Sharp v. Deputy Smith, et al.

TOPICS

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QUESTIONS PRESENTED

1. Whether Sharp should be granted leave under Federal Rule of Civil Procedure 15(a)(2) to file a third amended complaint.
2. Whether the third amended complaint stated potentially colorable Fourteenth Amendment claims for inadequate medical care by individual defendants.
3. Whether the complaint sufficiently pleaded municipal liability against Sacramento County under Monell.
4. Whether the complaint stated a potentially colorable First Amendment claim concerning denial of telephone communication.
5. Whether the complaint stated potentially colorable First Amendment retaliation claims.
6. Whether the complaint stated a potentially colorable Fourteenth Amendment claim for excessive solitary confinement.
7. Whether claims against an unlinked defendant, Tracy, RN, should be dismissed.

HOLDINGS

1. Leave to file the third amended complaint was granted because plaintiff had not previously been given an opportunity to amend his Monell claims against Sacramento County and the proposed amendment omitted or attempted to cure previously identified defects.
2. The complaint stated potentially colorable Fourteenth Amendment inadequate-medical-care claims against Kim Do, Gomez, Hailey-Currey, Masood, Mossett, Akudinobi, Glaser, Reema, Gladys, Dhaliwal, Gil, Her, and Cervantes based on the specific medical treatment and accommodation allegations described in the complaint.
3. The complaint did not state potentially colorable Monell claims against Sacramento County because it lacked specific facts identifying a policy, custom, failure to train, supervise, discipline, or hire, and did not link the County to the alleged violations.
4. The complaint stated a potentially colorable First Amendment claim against Doe defendants 1 through 4 based on allegedly disabling outgoing telephone calls and denying communication outside the prison.

5. The complaint failed to state a potentially colorable retaliation claim against Cervetti, Smith, Barrera, Yang, and Mora because the alleged referral for medical evaluation advanced a legitimate penological goal.
6. The complaint stated a potentially colorable retaliation claim against Smith, Mazzanti, and Melissa based on an allegedly retaliatory transfer to cell 37 after Sharp filed grievances, but did not link Sacramento County to the alleged deprivation.
7. The complaint stated a potentially colorable Fourteenth Amendment claim against Doe defendants 5 and 6 for allegedly holding Sharp in solitary confinement for an additional twenty-four hours after he notified them that he should be released, but failed to state such a claim against Her, Cervantes, or Sacramento County.
8. All claims against Tracy, RN, were recommended for dismissal because the third amended complaint did not link Tracy to any alleged deprivation.

KEY QUOTATIONS

“For the third element, the defendant’s conduct must be objectively unreasonable, “a test that will necessarily turn[] on the facts and circumstances of each particular case.”” (at 5)

“The critical inquiry is whether a constitutional claim, however inartfully pleaded, has an arguable legal and factual basis.” (at 6)

“A practice or custom must have “sufficient duration, frequency and consistency” that it has “become a traditional method of carrying out policy.”” (at 7)

“A viable claim of First Amendment retaliation entails five basic elements: 1) an assertion that a state actor took some adverse action against an inmate 2) because of 3) the inmate’s protected conduct, and 4) the adverse action chilled the inmate’s exercise of his First Amendment rights and 5) did not reasonably advance a legitimate penological purpose.” (at 17)

FACTUAL BACKGROUND

Sharp, formerly a county prisoner and apparently a pretrial detainee during the relevant events, alleged inadequate medical care, restrictions on communication, retaliation for grievances, and excessive solitary confinement at the Sacramento County Jail. The allegations concerned medical accommodations and treatment, telephone access, housing transfers, and an alleged additional twenty-four hours in solitary confinement. The court found several individual-capacity claims potentially colorable but found the allegations against Sacramento County and certain individual defendants insufficient.

PROCEDURAL HISTORY

Sharp filed the original complaint on October 16, 2024, followed by first and second amended complaints. On February 14, 2025, the court issued findings and recommendations finding six potentially colorable claims and recommending dismissal of seven others. Sharp then sought an extension of time to object, leave to file a third amended complaint, and filed the proposed complaint. The court vacated the February findings and recommendations, denied the extension request as unnecessary, granted leave to amend, screened the third

amended complaint, identified potentially colorable claims, and recommended dismissal of specified claims and defendants. The recommendations were submitted to the assigned district judge under 28 U.S.C. § 636(b)(1).

DISPOSITION

other

CASES CITED

- *Eminence Cap., LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1051 (9th Cir. 2003)
- *Foman v. Davis*, 371 U.S. 178, 182 (1962)
- *Chudacoff v. University Medical Center of Southern Nevada*, 649 F.3d 1143, 1152 (9th Cir. 2011)
- *United States v. Webb*, 655 F.2d 977, 979 (9th Cir. 1981)
- *Monell v. New York City Department of Social Services*, 436 U.S. 658 (1978)
- *Neitzke v. Williams*, 490 U.S. 319, 325, 327 (1989)
- *Franklin v. Murphy*, 745 F.2d 1221, 1227-28 (9th Cir. 1984)
- *Jackson v. Arizona*, 885 F.2d 639, 640 (9th Cir. 1989)
- *Lopez v. Smith*, 203 F.3d 1122, 1130-31 (9th Cir. 2000)
- *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555, 570 (2007)
- *Conley v. Gibson*, 355 U.S. 41, 47 (1957)
- *Erickson v. Pardus*, 551 U.S. 89, 93 (2007)
- *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974)
- *Davis v. Scherer*, 468 U.S. 183 (1984)
- *Gordon v. County of Orange*, 888 F.3d 1118, 1122, 1125 n.4 (9th Cir. 2018)
- *Horton by Horton v. City of Santa Maria*, 915 F.3d 592, 602-03 (9th Cir. 2019)
- *Plumeau v. School District No. 40 County of Yamhill*, 130 F.3d 432, 438 (9th Cir. 1997)
- *Dougherty v. City of Covina*, 654 F.3d 892, 900-01 (9th Cir. 2011)
- *Trevino v. Gates*, 99 F.3d 911, 918 (9th Cir. 1996)
- *Connick v. Thompson*, 563 U.S. 51, 61-62 (2011)
- *Yandell v. Washington*, 2021 WL 3674729, at *4 (E.D. Cal. Aug. 19, 2021)
- *Valdez v. Rosenblum*, 302 F.3d 1039, 1048 (9th Cir. 2002)
- *Wakefield v. Thompson*, 177 F.3d 1160, 1163 (9th Cir. 1999)
- *Gillespie v. Civiletti*, 629 F.2d 637, 642 (9th Cir. 1980)
- *Rhodes v. Robinson*, 408 F.3d 559, 567-68 (9th Cir. 2005)
- *Wilson v. Pima County Jail*, 256 Fed. App'x 949, 950 (9th Cir. 2007)
- *Bell v. Wolfish*, 441 U.S. 520, 535 n.16, 539 (1979)
- *Houston v. Maricopa County*, 116 F.4th 935, 940 (9th Cir. 2024)
- *Rizzo v. Goode*, 423 U.S. 362, 371-72 (1976)
- *Johnson v. Duffy*, 588 F.2d 740, 743 (9th Cir. 1978)

- Akhtar v. Mesa, 698 F.3d 1202, 1212 (9th Cir. 2012)
- Schucker v. Rockwood, 846 F.2d 1202, 1203-04 (9th Cir. 1988) (en banc)
- Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991)

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