

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
NEW YORK

Vincent Verdi v. L. Brennan et al.

No. 9:25-CV-1727 (N.D.N.Y. Feb. 12, 2026) · No. 9:25-CV-1727 (AJB/PJE) · Decided February 12, 2026

SUMMARY

The United States District Court for the Northern District of New York reviewed a pro se incarcerated plaintiff’s Section 1983 complaint challenging the rejection of articles submitted for publication in a prison newspaper. The court allowed the plaintiff’s First Amendment free speech and Fourteenth Amendment due process claims against defendants Brennan and Marcus to proceed past sua sponte review, while expressing no view on their ultimate merits. The court denied the plaintiff’s summary judgment motion without prejudice as premature and directed him to address service and the remaining filing fee or submit in forma pauperis materials.

CASE DETAILS

COURT	United States District Court for the Northern District of New York
WRITING FOR THE COURT	Anthony J. Brindisi
JURISDICTION	United States District Court for the Northern District of New York
DECIDED	February 12, 2026
DOCKET	9:25-CV-1727 (AJB/PJE)
DISPOSITION	other
PROCEDURAL POSTURE	The court conducted mandatory sua sponte screening of a prisoner civil-rights complaint under 28 U.S.C. § 1915A and considered plaintiff's accompanying motion for summary judgment before service of process.
STANDARD OF REVIEW	Under 28 U.S.C. § 1915A, the court must dismiss a prisoner's complaint, or portion thereof, that is frivolous, malicious, fails to state a claim, or seeks monetary relief from an immune defendant. For screening, the court liberally construes a pro se complaint, accepts well-pleaded factual allegations as true, and applies the plausibility standard under Federal Rule of Civil Procedure 8(a)(2). Summary judgment is proper only where there is no genuine dispute of material fact and the movant is entitled to judgment as a matter of law; ordinarily, the nonmoving party must have had an opportunity for discovery.

PRECEDENTIAL VALUE	nonprecedential district-court decision; claims allowed to proceed at screening without a merits determination
PARTIES	Vincent Verdi v. L. Brennan, Marcus, et al.

TOPICS

section 1983 prisoners rights first amendment due process summary judgment

PRACTICE AREAS

civil rights prisoner litigation constitutional law civil procedure

QUESTIONS PRESENTED

1. Whether Verdi's allegations plausibly stated First Amendment free-speech claims against Brennan and Marcus sufficient to survive screening under 28 U.S.C. § 1915A.
2. Whether Verdi's allegations plausibly stated Fourteenth Amendment procedural due-process claims based on the rejection of his articles and alleged violations of DOCCS directives.
3. Whether Verdi was entitled to summary judgment before defendants had been served and before the parties had an adequate opportunity for discovery.
4. What filing-fee, service, and IFP requirements applied before service of the surviving claims.

HOLDINGS

1. Verdi's First Amendment free-speech claims against Brennan and Marcus plausibly stated claims and survived sua sponte review under 28 U.S.C. § 1915A.
2. Verdi's Fourteenth Amendment due-process claims against Brennan and Marcus survived sua sponte review, although the court expressed serious doubt that the alleged DOCCS directives created a protected liberty interest or that the alleged deprivation imposed an atypical and significant hardship.
3. Verdi's motion for summary judgment was denied without prejudice as premature.
4. The complaint sufficiently connected Brennan and Marcus to the alleged constitutional violations for purposes of screening.

KEY QUOTATIONS

“At this stage of the proceeding, and mindful of the Second Circuit's instruction that a pro se plaintiff's pleadings must be liberally construed, see e.g. Sealed Plaintiff v. Sealed Defendant, 537 F.3d 185, 191 (2d Cir. 2008), the Court finds that plaintiff's First Amendment claims survive sua sponte review and require a response.” (7)

“Nonetheless, out of an abundance of solicitude, and mindful of the Second Circuit's instruction that a pro se plaintiff's pleadings must be liberally construed, the Court finds that plaintiff's due process claims survive sua sponte review and require a response.” (8)

“Only in the rarest of cases may summary judgement be granted against a [party] who has not been afforded the opportunity to conduct discovery.” (10)

“ORDERED that the following claims SURVIVE sua sponte review: (1) plaintiff’s First Amendment free speech claims against defendants Brennan and Marcus; and (2) plaintiff’s Fourteenth Amendment due process claims against defendants Brennan and Marcus;” (13)

FACTUAL BACKGROUND

Verdi was incarcerated at Shawangunk Correctional Facility and served as legal editor of the prison newspaper. In May 2025, defendant Marcus rejected three essays submitted by Verdi for publication, including essays concerning ineffective assistance of counsel and due process, without providing an explanation; defendant Brennan later stated that the Media Review Editorial Team had identified issues with the articles. Verdi alleged that the defendants violated his First Amendment speech rights and Fourteenth Amendment due-process rights by rejecting the articles and refusing to meet with him.

PROCEDURAL HISTORY

Verdi, an incarcerated plaintiff proceeding pro se, filed a 42 U.S.C. § 1983 complaint alleging that prison officials rejected articles submitted for publication in a prison newspaper and denied his requests to discuss the rejections. He paid all but \$3.00 of the filing fee and did not initially apply to proceed in forma pauperis. The court held that First Amendment free-speech claims and Fourteenth Amendment due-process claims against Brennan and Marcus survived screening, denied plaintiff's summary-judgment motion without prejudice as premature, and directed plaintiff either to pay the remaining filing and service fees or submit IFP materials and service documents.

DISPOSITION

other

CASES CITED

- Carr v. Dvorin, 171 F.3d 115, 116 (2d Cir. 1999) (per curiam)
- Abbas v. Dixon, 480 F.3d 636, 639 (2d Cir. 2007)
- Nance v. Kelly, 912 F.2d 605, 606 (2d Cir. 1990) (per curiam)
- Anderson v. Coughlin, 700 F.2d 37, 41 (2d Cir. 1983)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555-70 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678-79 (2009)
- Sykes v. James, 13 F.3d 515, 519 (2d Cir. 1993)
- Grullon v. City of New Haven, 720 F.3d 133, 138 (2d Cir. 2013)
- Austin v. Pappas, No. 04-CV-7263, 2008 WL 857528, at *2 (S.D.N.Y. Mar. 31, 2008)
- Bass v. Jackson, 790 F.2d 260, 263 (2d Cir. 1986)
- Griswold v. Connecticut, 381 U.S. 479, 482 (1965)

- Burns v. Martuscello, 890 F.3d 77, 86 (2d Cir. 2018)
- Jones v. N.C. Prisoners' Lab. Union, 433 U.S. 119, 125 (1977)
- Farid v. Goord, 200 F. Supp. 2d 220, 239-40 (W.D.N.Y. 2002)
- Abdul Wali v. Coughlin, 754 F.2d 1015, 1018 (2d Cir. 1985)
- O'Lone v. Estate of Shabazz, 482 U.S. 342, 350 n.2 (1987)
- Turner v. Safley, 482 U.S. 78, 89 (1987)
- Sealed Plaintiff v. Sealed Defendant, 537 F.3d 185, 191 (2d Cir. 2008)
- Ortiz v. McBride, 380 F.3d 649, 654 (2d Cir. 2004)
- Shakur v. Selsky, 391 F.3d 106, 118 (2d Cir. 2004)
- Tellier v. Fields, 280 F.3d 69, 79-80 (2d Cir. 2000)
- Hynes v. Squillace, 143 F.3d 653, 658 (2d Cir. 1998)
- Bedoya v. Coughlin, 91 F.3d 349, 351-52 (2d Cir. 1996)
- Sandin v. Conner, 515 U.S. 472, 483-84 (1995)
- Vega v. Lantz, 596 F.3d 77, 83 (2d Cir. 2010)
- Olim v. Wakinekona, 461 U.S. 238, 249 (1983)
- Kentucky Dep't of Corrections v. Thompson, 490 U.S. 454 (1989)
- Jackson v. Boucaud, No. 9:08-CV-1373 (TJM/DEP), 2009 WL 6066799, at *7-10 (N.D.N.Y. Dec. 31, 2009)
- King v. Wenderlich, No. 14-CV-6491, 2016 WL 4678998, at *2 (W.D.N.Y. Sept. 7, 2016)
- Celotex Corp. v. Catrett, 477 U.S. 317, 322-24 (1986)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247-50 (1986)
- Jeffreys v. City of New York, 426 F.3d 549, 553 (2d Cir. 2005)
- Wright v. Goord, 554 F.3d 255, 266 (2d Cir. 2009)
- Dallas Aerospace, Inc. v. CIS Air Corp., 352 F.3d 775, 780 (2d Cir. 2003)
- Trebor Sportswear Co. v. The Ltd. Stores, Inc., 865 F.2d 506, 511 (2d Cir. 1989)
- Hellstrom v. U.S. Dep't of Veteran Affs., 201 F.3d 94, 97 (2d Cir. 2000)
- United States v. E. River Hous. Corp., 90 F. Supp. 3d 118, 139 n.21 (S.D.N.Y. 2015)
- Crystalline H2O, Inc. v. Orminski, 105 F. Supp. 2d 3, 8 (N.D.N.Y. 2000)