

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

Rafael Soto v. Jack Johnson and Twin Falls County Adult Detention Center

Soto v. Johnson · No. 1:25-cv-00493-BLW · Decided April 3, 2026

OPINION

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO RAFAEL SOTO, Case No. 1:25-cv-00493-BLW Plaintiff, SUCCESSIVE REVIEW ORDER v. BY SCREENING JUDGE JACK JOHNSON and TWIN FALLS COUNTY ADULT DETENTION CENTER, Defendants. Plaintiff Rafael Soto is a prisoner proceeding pro se in this civil rights action.

The Court previously reviewed Plaintiff’s complaint pursuant to 28 U.S.C. § 1915A, determined that it failed to state a claim upon which relief could be granted, and allowed Plaintiff an opportunity to amend. See Initial Review Order, Dkt. 8. Plaintiff has now filed an Amended Complaint. Dkt. 10.

The Court retains its screening authority pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A(b). Having reviewed the Amended Complaint, the Court concludes that Plaintiff has failed to remedy the deficiencies in the initial complaint, and the Court will dismiss this case pursuant to 28 U.S.C. §§ 1915 and 1915A. 1. Motion for Appointment of Counsel Plaintiff seeks appointment of counsel.

Dkt. 11. Unlike criminal defendants, prisoners and indigents in civil actions have no constitutional right to counsel unless their physical liberty is at stake. *Lassiter v. Dep’t of Social Services*, 452 U.S. 18, 25 (1981). Whether a court appoints counsel for indigent litigants is within the court’s discretion. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir.

1986). In civil cases, counsel should be appointed only in “exceptional circumstances.” *Id.* To determine whether exceptional circumstances exist, the court should evaluate two factors: (1) the likelihood of success on the merits of the case, and (2) the ability of the plaintiff to articulate the claims pro se in light of the complexity of legal issues involved.

Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991). Neither factor is dispositive, and both must be evaluated together. *Id.* Further, an attorney cannot be forced to represent an indigent litigant in a civil case—rather, the attorney can only be “appointed” if she voluntarily accepts the appointment. See *Mallard v. U.S. Dist. Court for S. Dist. of Iowa*, 490 U.S. 296, 298 (1989) (holding that the appointment of counsel provision in § 1915, formerly found in subsection (d), does not “authorize[] a federal court to require an unwilling attorney to represent an indigent litigant in a civil case”); *Veenstra v. Idaho State Bd. of Corr.*, Case No. 1:15-cv-00270-EJL (D.

Idaho May 4, 2017) (“[The Court] does not have inherent authority to compel an attorney to represent Plaintiffs pro bono.”). The legal issues in this matter are not complex, and Plaintiff has been able to file documents with the Court and protect Plaintiff’s interests to date.

In addition, as explained below, the Amended Complaint fails to state a claim upon which relief may be granted; therefore, Plaintiff does not have a likelihood of success on the merits. Accordingly, the Court will deny Plaintiff’s Motion for Appointment of Counsel. 2. Screening Requirement and Pleading Standard The Court must dismiss a prisoner or in forma pauperis complaint—or any portion thereof—that states a frivolous or malicious claim, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief.

28 U.S.C. §§ 1915(e)(2) & 1915A(b). A complaint must contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). A complaint fails to state a claim for relief under Rule 8 if the factual assertions in the complaint, taken as true, are insufficient for the reviewing court plausibly “to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). “[D]etailed factual allegations” are not required, but a plaintiff must offer “more than... unadorned, the-defendant-unlawfully-harmed-me accusation[s].” *Id.* (internal quotation marks omitted).

If the facts pleaded are “merely consistent with a defendant’s liability,” the complaint has not stated a claim for relief that is plausible on its face. *Id.* (internal quotation marks omitted). 3. Discussion Plaintiff brings claims under 42 U.S.C. § 1983, the civil rights statute.

To state a plausible civil rights claim, a plaintiff must allege a violation of rights protected by the Constitution or created by federal statute proximately caused by conduct of a person acting under color of state law. *Crumpton v. Gates*, 947 F.2d 1418, 1420 (9th Cir. 1991). Plaintiff alleges that the failure of Defendants to ensure he never had to eat pork while he was detained in the Twin Falls County Jail violated his First Amendment right to free exercise of religion and his Fourteenth Amendment right to equal protection.

Am. Compl. at 3. Like the initial complaint, the Amended Complaint does not include any allegations about Plaintiff’s religion or its requirement that he refrain from eating pork. Plaintiff simply states that he does not eat pork. This is insufficient to support a reasonable inference that the possibility that Plaintiff might have been served pork on an unknown number of occasions constitutes a substantial burden on Plaintiff’s religious exercise.

See *Hernandez v. Comm’r*, 490 U.S. 680, 699 (1989) (“The free exercise inquiry asks whether government has placed a substantial burden on the observation of a central religious belief or practice and, if so, whether a compelling governmental interest justifies the burden.”); *Rapier v. Harris*, 172 F.3d 999, 1006 n.4 (7th Cir. 1999) (holding that the unavailability of a non-pork tray

for inmate at 3 meals out of 810 does not constitute more than a de minimis burden on inmate's free exercise of religion).

As for Plaintiff's equal protection claims, the Amended Complaint does not plausibly allege that Defendants subjected Plaintiff to "intentional and arbitrary discrimination." *Village of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000) (per curiam).

The Amended Complaint contains only "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements." *Iqbal*, 556 U.S. at 678. Thus, the Court need not accept these recitals as true under Rule 8 or § 1915A.

Accordingly, the Amended Complaint is subject to dismissal for failure to state a claim upon which relief may be granted. 4. Conclusion Although pro se pleadings must be liberally construed, "a liberal interpretation of a civil rights complaint may not supply essential elements of the claim that were not initially pled." *Ivey v. Bd. of Regents of Univ. of Alaska*, 673 F.2d 266, 268 (9th Cir. 1982). Because Plaintiff has already been given the opportunity to amend and still has failed to state a plausible claim for relief, the Court will dismiss the Amended Complaint with prejudice and without further leave to amend. See *Knapp v. Hogan*, 738 F.3d 1106, 1110 (9th Cir. 2013) ("When a litigant knowingly and repeatedly refuses to conform his pleadings to the requirements of the Federal Rules, it is reasonable to conclude that the litigant simply cannot state a claim.").

ORDER IT IS ORDERED: 1. Plaintiff's Motion for Appointment of Counsel (Dkt. 11) is DENIED. 2. Plaintiff's Motion to Review the Amended Complaint (Dkt. 9) is GRANTED. 3. The Amended Complaint fails to state a claim upon which relief may be granted.

Therefore, for the reasons stated in this Order and the Initial Review Order (Dkt. 8), this entire case is DISMISSED with prejudice pursuant to 28 U.S.C. § 1915A(b)(1). Roo U 5 District Court Judge SUCCESSIVE REVIEW ORDER BY SCREENING JUDGE - 6