

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Larry Wyane Palsey, Jr. v. Pat Horn, et al.

Palsey v. Horn · No. 1:25-cv-00682-HBK (PC) · Decided October 9, 2025

SUMMARY

The document contains findings and recommendations from the United States District Court for the Eastern District of California in a prisoner civil-rights action brought under 42 U.S.C. § 1983. The magistrate judge recommends dismissing the complaint without prejudice under 28 U.S.C. § 1915A for failure to state a claim, while granting leave to amend. The recommendation addresses official-capacity claims, supervisory liability, alleged medical deliberate indifference, and related state-law claims.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Helena M. Barch-Kuchta
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	October 9, 2025
DOCKET	1:25-cv-00682-HBK (PC)
DISPOSITION	other
PROCEDURAL POSTURE	A pro se state prisoner proceeding in forma pauperis brought a 42 U.S.C. § 1983 action concerning alleged inadequate medical care. After the magistrate judge previously screened the complaint and identified deficiencies, Plaintiff filed a pleading construed as a notice to stand on the complaint. The magistrate judge issued findings and recommendations recommending dismissal without prejudice under 28 U.S.C. § 1915A and leave to amend.
STANDARD OF REVIEW	At PLRA screening, the court accepts factual allegations as true, construes a pro se pleading liberally, and resolves doubts in the plaintiff's favor, but need not accept conclusory allegations, unreasonable inferences, or unwarranted factual deductions. A complaint must contain sufficient factual matter to state a facially plausible claim under Federal Rule of Civil Procedure 8 and Ashcroft v. Iqbal.

TOPICS

prisoners rights

section 1983

pleadings

civil procedure

eleventh amendment immunity

PRACTICE AREAS

prisoner civil rights

constitutional law

federal civil procedure

medical malpractice

QUESTIONS PRESENTED

1. Whether the complaint stated a cognizable claim under 28 U.S.C. § 1915A and Federal Rule of Civil Procedure 8.
2. Whether the official-capacity claims for monetary damages were barred by the Eleventh Amendment.
3. Whether the complaint adequately alleged personal participation or supervisory liability by Warden Pat Horn under 42 U.S.C. § 1983.
4. Whether the allegations against Ho and Freeman plausibly stated an Eighth Amendment deliberate-indifference claim concerning medical care.
5. Whether the asserted state-law medical-malpractice claims were subject to dismissal for failure to allege compliance with California's Government Claims Act.

HOLDINGS

1. Claims against the defendants in their official capacities seeking monetary damages are treated as claims against the State and are barred by the Eleventh Amendment.
2. The complaint failed to state a claim against Warden Horn because it alleged liability solely based on his supervisory position and did not allege personal participation, direction, knowledge, or failure to prevent a constitutional violation.
3. The complaint failed to state an Eighth Amendment deliberate-indifference claim against Ho or Freeman because it lacked specific facts showing their knowledge of and disregard for a substantial risk of serious harm and instead alleged conclusions, delay, misdiagnosis, or possible malpractice.
4. At the screening stage, Plaintiff's allegation that Freeman was a contracted physician providing medical care for CDCR was sufficient to treat Freeman as a state actor for purposes of § 1983.
5. The state-law claims were subject to dismissal because the complaint did not allege compliance with the California Government Claims Act's presentment and exhaustion requirements.

KEY QUOTATIONS

"The sheer possibility that a defendant acted unlawfully is not sufficient, and mere consistency with liability falls short of satisfying the plausibility standard." (at 2)

"There is no respondeat superior liability under section 1983." (at 5)

“It is the physician’s function within the state system, not the precise terms of his employment, that determines whether his actions can fairly be attributed to the State.” (at 6)

“It is only when an official both recognizes and disregards a risk of substantial harm that a claim for deliberate indifference exists.” (at 8)

FACTUAL BACKGROUND

Plaintiff, a state prisoner housed at Kern Valley State Prison, alleged that he underwent carpal tunnel surgery, developed gangrene, and ultimately had two fingers amputated. He alleged that Physician Assistant Chen Ho delayed or failed to provide appropriate treatment and that outside physician Dr. Freeman performed surgery on the wrong wrist. He sued Warden Pat Horn, Ho, and Freeman in their individual and official capacities, asserting constitutional violations and seeking \$2.5 million in damages.

PROCEDURAL HISTORY

Plaintiff filed an unsigned complaint, which was struck, and then filed the operative complaint on July 9, 2025. The court previously screened the complaint, found no cognizable constitutional claim, and gave Plaintiff options including amendment, standing on the complaint, or voluntary dismissal. Plaintiff instead filed a motion asserting that the complaint was sufficient; the court construed it as a notice to stand on the complaint and recommended dismissal without prejudice with leave to amend. The recommendation was subject to district-judge review after a fourteen-day objection period.

DISPOSITION

other

REMAND INSTRUCTIONS

The magistrate judge recommended that the complaint be dismissed without prejudice under § 1915A and that Plaintiff be granted thirty days from the district court’s adoption of the findings and recommendations to file an amended complaint.

CASES CITED

- Jenkins v. McKeithen, 395 U.S. 411, 421 (1969)
- Bernhardt v. Los Angeles County, 339 F.3d 920, 925 (9th Cir. 2003)
- Western Mining Council v. Watt, 643 F.2d 618, 624 (9th Cir. 1981)
- Jackson v. Arizona, 885 F.2d 639, 640 (9th Cir. 1989)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Moss v. U.S. Secret Service, 572 F.3d 962, 969 (9th Cir. 2009)
- Doe I v. Wal-Mart Stores, Inc., 572 F.3d 677, 681 (9th Cir. 2009)
- Lopez v. Smith, 203 F.3d 1122, 1127-29, 1131 n.13 (9th Cir. 2000) (en banc)
- Lucas v. Department of Corrections, 66 F.3d 245, 248 (9th Cir. 1995)

- *Pliler v. Ford*, 542 U.S. 225, 231 (2004)
- *Miller v. Transamerican Press, Inc.*, 709 F.2d 524, 527 (9th Cir. 1983)
- *Sea Ranch Ass'n v. California Coastal Zone Conservation Commission*, 537 F.2d 1058, 1061 (9th Cir. 1976)
- *Alabama v. Pugh*, 438 U.S. 781, 782 (1978)
- *Pennhurst State School & Hospital v. Halderman*, 465 U.S. 89, 100 (1984)
- *Kentucky v. Graham*, 473 U.S. 159, 169 (1985)
- *Park v. Thompson*, 851 F.3d 910, 921 (9th Cir. 2017)
- *West v. Atkins*, 487 U.S. 42, 54-56 (1988)
- *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989)
- *Starr v. Baca*, 652 F.3d 1202, 1206-07 (9th Cir. 2011)
- *Estelle v. Gamble*, 429 U.S. 97, 104-07 (1976)
- *McGuckin v. Smith*, 974 F.2d 1050, 1059 (9th Cir. 1992)
- *WMX Technologies, Inc. v. Miller*, 104 F.3d 1133, 1136 (9th Cir. 1997) (en banc)
- *Colwell v. Bannister*, 763 F.3d 1060, 1066 (9th Cir. 2014)
- *Farmer v. Brennan*, 511 U.S. 825, 837 (1994)
- *Sandoval v. County of San Diego*, 985 F.3d 657, 668 (9th Cir. 2021)
- *Toguchi v. Chung*, 391 F.3d 1051, 1057 (9th Cir. 2004)
- *Hamby v. Hammond*, 821 F.3d 1085, 1092 (9th Cir. 2016)
- *Lemire v. California Department of Corrections & Rehabilitation*, 726 F.3d 1062, 1074, 1082 (9th Cir. 2013)
- *Wilhelm v. Rotman*, 680 F.3d 1113, 1123 (9th Cir. 2012)
- *Shapley v. Nevada Board of State Prison Commissioners*, 766 F.2d 404, 407 (9th Cir. 1985)
- *Peralta v. Dillard*, 744 F.3d 1076, 1086 (9th Cir. 2014) (en banc)
- *Jett v. Penner*, 439 F.3d 1091, 1096 (9th Cir. 2006)
- *Cervantes v. Elsen*, 2023 WL 3483292 (N.D. Cal. May 15, 2023)
- *Valenzuela v. Monson*, 2020 WL 1812043, at *2 (D. Ariz. Apr. 8, 2020)
- *Fisher v. Washington State Department of Corrections*, 2019 WL 1745086, at *1 (W.D. Wash. Apr. 18, 2019)
- *Walker v. Muniz*, 2019 WL 2359229, at *4 (N.D. Cal. June 4, 2019)
- *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)
- *McHenry v. Renne*, 84 F.3d 1172, 1177-79 (9th Cir. 1996)
- *McIntosh v. City of Los Angeles*, 2005 U.S. Dist. LEXIS 53641, at *5 (C.D. Cal. July 21, 2005)
- *Hallett v. Morgan*, 296 F.3d 732, 745-46 (9th Cir. 2002)
- *Karim-Panahi v. Los Angeles Police Department*, 839 F.2d 621, 627 (9th Cir. 1988)
- *Acri v. Varian Associates, Inc.*, 114 F.3d 999, 1001 (9th Cir. 1997)
- *Cervantez v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1041 (9th Cir. 2011)
- *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/federal/united-states-district-court-for-the-eastern-district-of-cal/2025/larry-wyane-palsey-jr-v-pat-horn-et-al-qhekm31c>