

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Raquel Grey v. Sun Health Foundation Incorporated

No. CV-26-01712-PHX-SHD · No. No. CV-26-01712-PHX-SHD · Decided April 10, 2026

SUMMARY

The United States District Court for the District of Arizona grants Raquel Grey’s application to proceed in forma pauperis. The court dismisses her Title VII retaliation complaint for failure to allege that she engaged in protected activity, while granting 30 days to amend. The order warns that failure to amend may result in dismissal with prejudice.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                  |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the District of Arizona                                                                                                                                                                                                                         |
| WRITING FOR THE COURT | Sharad H. Desai                                                                                                                                                                                                                                                                  |
| JURISDICTION          | United States District Court for the District of Arizona                                                                                                                                                                                                                         |
| DECIDED               | April 10, 2026                                                                                                                                                                                                                                                                   |
| DOCKET                | No. CV-26-01712-PHX-SHD                                                                                                                                                                                                                                                          |
| DISPOSITION           | other                                                                                                                                                                                                                                                                            |
| PROCEDURAL POSTURE    | Plaintiff filed a Title VII retaliation complaint and an application to proceed in forma pauperis. The district court granted IFP status, screened the complaint under 28 U.S.C. § 1915(e)(2), dismissed the complaint for failure to state a claim, and granted leave to amend. |
| STANDARD OF REVIEW    | The court applied the pleading standard under Federal Rule of Civil Procedure 12(b)(6) during mandatory IFP screening under 28 U.S.C. § 1915(e)(2)(B). The complaint had to contain sufficient factual matter, accepted as true, to state a plausible claim for relief.          |
| PRECEDENTIAL VALUE    | unpublished, nonprecedential district court order                                                                                                                                                                                                                                |

TOPICS

- civil procedure
- motions to dismiss
- retaliation
- title vii
- employment discrimination

PRACTICE AREAS

- civil procedure
- employment law
- civil rights

## QUESTIONS PRESENTED

1. Whether Grey qualified to proceed in forma pauperis.
2. Whether the complaint stated a Title VII retaliation claim under the mandatory screening standard of 28 U.S.C. § 1915(e)(2).
3. Whether Grey should be granted leave to amend the deficient complaint.

## HOLDINGS

1. Grey qualified to proceed in forma pauperis because she could not pay court costs while still affording the necessities of life.
2. The complaint failed to state a Title VII retaliation claim because Grey did not allege that she engaged in protected activity by opposing conduct she reasonably believed violated Title VII.
3. Grey was entitled to amend because the court could not conclude that amendment would be futile.

## KEY QUOTATIONS

*“It is also clear that section 1915(e) not only permits but requires a district court to dismiss an in forma pauperis complaint that fails to state a claim.” (2)*

*“Protected activity includes (a) opposing a practice made unlawful by Title VII or (b) participating in a Title VII investigation, proceeding, or hearing.” (3)*

*“While a plaintiff need not have invoked ‘magic words’ in order for his complaints to constitute protected activity, he must have alerted his employer to his belief that discrimination, not merely unfair personnel treatment, had occurred.” (4)*

## FACTUAL BACKGROUND

Grey alleged that Sun Health hired her as an Accounts Receivable Specialist in November 2024. She complained to senior management about her supervisor's micromanagement, overbearing conduct, and harsh feedback, and was terminated the day after escalating those concerns to the Vice President and Human Resources. She characterized the termination as retaliation under Title VII, but did not allege that she complained about discrimination based on race, sex, national origin, or another protected characteristic.

## PROCEDURAL HISTORY

Raquel Grey filed the action on March 13, 2026, together with an application to proceed in forma pauperis. The court found that she could not pay court costs while affording the necessities of life, granted the IFP application, and screened her complaint. The court dismissed the complaint because the alleged workplace complaints did not constitute protected activity under Title VII, but allowed Grey 30 days to amend.

## DISPOSITION

other

## CASES CITED

- Escobedo v. Applebees, 787 F.3d 1226, 1234-35 (9th Cir. 2015)
- Adkins v. E.I. DuPont de Nemours & Co., 335 U.S. 331, 339 (1948)
- Lopez v. Smith, 203 F.3d 1122, 1127 (9th Cir. 2000)
- Kennedy v. Andrews, 2005 WL 3358205, at \*2 (D. Ariz. 2005)
- Watison v. Carter, 668 F.3d 1108, 1112 (9th Cir. 2012)
- Wilhelm v. Rotman, 680 F.3d 1113, 1121 (9th Cir. 2012)
- Hairston v. Juarez, 2023 WL 2468967, at \*2 (S.D. Cal. 2023)
- Ashcroft v. Iqbal, 556 U.S. 662, 677-78 (2009)
- Jackson v. Barnes, 749 F.3d 755, 763-64 (9th Cir. 2014)
- Ray v. Henderson, 217 F.3d 1234, 1240 (9th Cir. 2000)
- Bruner v. City of Phoenix, 2020 WL 5258295, at \*4 (D. Ariz. 2020)
- Gutierrez v. Kaiser Found. Hospitals Inc., 2012 WL 5372607, at \*6 (N.D. Cal. 2012)
- Lopez v. Smith, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (en banc)
- Bonin v. Calderon, 59 F.3d 815, 845 (9th Cir. 1995)
- Ferdik v. Bonzelet, 963 F.2d 1258, 1262 (9th Cir. 1992)
- Hal Roach Studios v. Richard Feiner & Co., 896 F.2d 1542, 1546 (9th Cir. 1990)
- Lacey v. Maricopa County, 693 F.3d 896, 928 (9th Cir. 2012) (en banc)

## OPINION

1 WO 2 3 4 5 6 IN THE UNITED STATES DISTRICT COURT 7 FOR THE DISTRICT OF  
ARIZONA 8 9 Raquel Grey, No. CV-26-01712-PHX-SHD 10 Plaintiff, ORDER 11 v. 12 Sun  
Health Foundation Incorporated, 13 Defendant. 14 15 On March 13, 2026, Plaintiff Raquel Grey  
filed this action along with an 16 Application for Leave to Proceed In Forma Pauperis (“IFP”),  
(Doc. 3).

For the following 17 reasons, Grey’s IFP application will be granted and her Complaint, (Doc. 1),  
will be 18 dismissed with leave to amend. 19 I. IFP APPLICATION 20 “There is no formula set  
forth by statute, regulation, or case law to determine when 21 someone is poor enough to earn IFP  
status.” Escobedo v. Applebees, 787 F.3d 1226, 1235 22 (9th Cir. 2015). “An affidavit in support  
of an IFP application is sufficient where it alleges 23 that the affiant cannot pay the court costs and  
still afford the necessities of life.” Id. at 1234 24 (citing Adkins v. E.I.

Dupont de Nemours & Co., 335 U.S. 331, 339 (1948)). 25 Having reviewed the application to  
proceed IFP, (Doc. 3), I find that Grey cannot 26 pay the court costs and still afford necessities.  
Thus, the motion to proceed IFP will be 27 granted. 28 1 II. SCREENING THE COMPLAINT 2  
Because Grey is proceeding IFP in this case, her Complaint must be screened. 3 A. Legal Standard  
4 Congress provided with respect to in forma pauperis cases that a district court 5 “shall dismiss  
the case at any time if the court determines” that the “allegation of poverty is untrue” or that the

“action or appeal” is “frivolous 6 or malicious,” “fails to state a claim on which relief may be granted,” or 7 “seeks monetary relief against a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2).

While much of section 1915 outlines how prisoners 8 can file proceedings in forma pauperis, section 1915(e) applies to all in forma 9 pauperis proceedings, not just those filed by prisoners. *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000). “It is also clear that section 1915(e) not only 10 permits but requires a district court to dismiss an in forma pauperis complaint that fails to state a claim.” *Id.* Therefore, this court must dismiss an in forma 11 pauperis complaint if it fails to state a claim or if it is frivolous or malicious.

12 *Kennedy v. Andrews*, 2005 WL 3358205, at \*2 (D. Ariz. 2005). 13 14 “The standard for determining whether a plaintiff has failed to state a claim upon which relief can be granted under § 1915(e)(2)(B)(ii) is the same as the 15 Federal Rule of Civil Procedure 12(b)(6) standard for failure to state a 16 claim.” *Watson v. Carter*, 668 F.3d 1108, 1112 (9th Cir.

2012); see also *Wilhelm v. Rotman*, 680 F.3d 1113, 1121 (9th Cir. 2012) (noting that 17 screening pursuant to § 1915A “incorporates the familiar standard applied in the context of failure to state a claim under Federal Rule of Civil Procedure 18 12(b)(6)”). 19 20 *Hairston v. Juarez*, 2023 WL 2468967, at \*2 (S.D. Cal. 2023). 21 B. Grey’s Complaint 22 Under Rule 8(a)(2), “a pleading must contain a ‘short and plain statement of the 23 claim showing that the pleader is entitled to relief.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 677– 24 78 (2009) (quoting Fed.

R. Civ. P. 8(a)(2)). While this does not require “detailed factual 25 allegations,... it demands more than an unadorned, the-defendant-unlawfully-harmed-me 26 accusation.” *Id.* at 678 (quotation marks omitted). To meet this standard, “a complaint 27 must contain sufficient factual matter, accepted as true, to state a claim to relief that is 28 plausible on its face.” *Id.* (quotation marks omitted).

Thus, a complaint must include 1 “factual content that allows the court to draw the reasonable inference that the defendant is 2 liable for the misconduct alleged.” *Id.* “Threadbare recitals of the elements of a cause of 3 action, supported by mere conclusory statements, do not suffice.” *Id.*; see also *id.* (“Nor 4 does a complaint suffice if it tenders naked assertions devoid of further factual 5 enhancement.” (citation modified)).

Pro se filings must be construed “liberally when 6 evaluating them under *Iqbal*.” *Jackson v. Barnes*, 749 F.3d 755, 763–64 (9th Cir. 2014). 7 In her Complaint, Grey asserts a single claim of retaliation under Title VII of the 8 Civil Rights Act against her former employer, Defendant Sun Health Foundation 9 Incorporated (“Sun Health”). (Doc. 1 at 5.) Grey alleges that she was hired as an Accounts 10 Receivable Specialist in November 2024, that she raised concerns to senior management 11 about her supervisor’s micromanagement and overbearing conduct, and that she

was 12 terminated the day after escalating those concerns to the Vice President and Human 13 Resources.

(Id. at 1–4.) She contends her termination was in retaliation for raising these 14 complaints. (Id. at 4.) 15 To make out a prima facie case of retaliation, Grey must allege that (1) she engaged 16 in protected activity; (2) Sun Health subjected her to an adverse employment action; and 17 (3) a causal link exists between the protected activity and the adverse action.

Ray v. 18 Henderson, 217 F.3d 1234, 1240 (9th Cir. 2000). Protected activity includes (a) opposing 19 a practice made unlawful by Title VII or (b) participating in a Title VII investigation, 20 proceeding, or hearing. 42 U.S.C. § 2000e-3(a). While complaining to a supervisor or 21 upper management can constitute protected activity under Title VII, “the employee must 22 reasonably believe that the complained-of conduct” is prohibited by Title VII—that is, 23 amounts to discrimination based on a protected class.

Bruner v. City of Phoenix, 2020 WL 24 5258295, at \*4 (D. Ariz. 2020). 25 Grey’s allegations describe complaints about her supervisor’s micromanagement 26 and harsh feedback, but nothing in the Complaint suggests that Grey believed her 27 supervisor’s conduct was based on her race, sex, national origin, or any other protected 28 characteristic. (See generally, Doc.

1.) Making complaints about workplace conditions 1 not prohibited by Title VII does not constitute protected activity. Gutierrez v. Kaiser 2 Found. Hospitals Inc., 2012 WL 5372607, at \*6 (N.D. Cal. 2012) (“While a plaintiff need 3 not have invoked ‘magic words’ in order for his complaints to constitute protected activity, 4 he must have alerted his employer to his belief that discrimination, not merely unfair 5 personnel treatment, had occurred.”).

Because Grey has not alleged that she complained 6 of conduct she believed was prohibited by Title VII, and thus, participated in a protected 7 activity, she fails to state a claim for retaliation, and her Complaint will be dismissed. 8 III. LEAVE TO AMEND 9 Unless a court determines that a pleading cannot be cured by the allegation of other 10 facts, a pro se litigant is entitled to an opportunity to amend a complaint before dismissal 11 of the action.

See Lopez v. Smith, 203 F.3d 1122, 1127–29 (9th Cir. 2000) (en banc). A 12 finding that any amendment would be futile justifies dismissal without leave to amend. 13 Bonin v. Calderon, 59 F.3d 815, 845 (1995). 14 Here, it cannot be concluded that amendment would be futile. Grey will therefore 15 be granted an opportunity to amend, but she is advised that failure to allege sufficient facts 16 supporting her claims—including that she engaged in a protected activity under Title VII — 17 may result in dismissal of this action without further leave to amend.

18 Grey is reminded that an amended Complaint supersedes the original Complaint. 19 Ferdik v. Bonzelet, 963 F.2d 1258, 1262 (9th Cir. 1992); Hal Roach Studios v. Richard 20 Feiner & Co., 896 F.2d 1542, 1546 (9th Cir. 1990).

Thus, after amendment, the original 21 complaint is treated as nonexistent. *Ferdik*, 963 F.2d at 1262. Any cause of action raised 22 in the original complaint is waived if it is not alleged in an amended complaint. See *Lacey v. Maricopa County*, 693 F.3d 896, 928 (9th Cir. 2012) (en banc). And any Defendant not 24 renamed in the amended complaint will remain dismissed from this case.

See id. 25 IV. CONCLUSION 26 Accordingly, 27 IT IS ORDERED that the motion to proceed in forma pauperis, (Doc. 3), is 28 granted. IT IS FURTHER ORDERED that the Complaint, (Doc.1), is dismissed with leave to amend. Grey has 30 days from the date of this Order to file an amended complaint. 3 Consistent with LRCiv 15.1, Grey shall file, concurrently with any amended complaint, a 4 notice of filing the amended pleading that attaches a copy of the amended pleading ° indicating in what ways it differs from the Complaint.’ 6 IT IS FURTHER ORDERED that if Grey files an amended complaint, the Clerk of Court shall not issue summons until the Court screens the amended complaint and orders 8 service consistent with 28 U.S.C. § 1915(d).?

IT IS FURTHER ORDERED that if Grey fails to file an amended complaint 16 within 30 days, the Clerk of Court shall enter judgment dismissing this case with prejudice. Dated this 10th day of April, 2026. 12 13 14 16 yf 17 H le Sharad H. Desai ig United States District Judge 19 20 21 22 23 24 25 26 1 \_ \_\_.The Local Rules and a Handbook for Self-Represented Litigants are available on 28|| those Proceeding Without an Attorney (Pro Se), <https://www.azd.ascourls.gov/proceeding-without-attorney> (last visited April 3, 2026). \_5-