

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.

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 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.” Watison 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 23 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-