

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
INDIANA, FORT WAYNE DIVISION

Malcolm Tanner v. Grant County Sheriff's Department, et al.

Tanner · No. 1:25-CV-460-HAB-ALT · Decided December 17, 2025

SUMMARY

The United States District Court for the Northern District of Indiana grants defendants’ motion to dismiss Malcolm Tanner’s claims arising from the boarding and alleged damage of his property. The court dismisses the federal constitutional claims for failure to allege municipal policy or custom and dismisses the state trespass claim in part as time-barred and in part without prejudice for lack of supplemental jurisdiction. The court grants Tanner leave to amend the federal claims by January 16, 2026.

CASE DETAILS

COURT	United States District Court for the Northern District of Indiana, Fort Wayne Division
WRITING FOR THE COURT	Holly A. Brady
JURISDICTION	United States District Court for the Northern District of Indiana, Fort Wayne Division
DECIDED	December 17, 2025
DOCKET	1:25-CV-460-HAB-ALT
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss a pro se complaint asserting Fourth and Fourteenth Amendment claims under 42 U.S.C. § 1983 and a state-law trespass claim.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true, views the facts in the plaintiff's favor, and determines whether the complaint gives fair notice and states a facially plausible claim. Pro se pleadings are liberally construed, but legal conclusions and unsupported factual conclusions are not accepted as true.
PRECEDENTIAL VALUE	Unknown; federal district court opinion with no reported citation in the source.

PARTIES

Malcolm Tanner v. Grant County Sheriff's Department, Grant County, Indiana, Del Garcia

TOPICS

motions to dismiss

section 1983

municipal liability

civil rights

trespass

PRACTICE AREAS

Civil rights

Civil procedure

Municipal liability

Torts

Constitutional law

QUESTIONS PRESENTED

1. Whether Tanner stated claims against Grant County and Sheriff Del Garcia when the complaint contained no specific allegations that either defendant committed wrongdoing.
2. Whether Tanner stated a § 1983 claim against the Grant County Sheriff's Office without identifying a municipal policy, custom, or final policymaker causing the alleged constitutional injuries.
3. Whether the January 2024 trespass claim was barred by the Indiana Tort Claims Act's notice requirement.
4. Whether the court should retain supplemental jurisdiction over the timely state-law trespass allegations after dismissing all federal claims.
5. Whether Tanner should receive leave to amend.

HOLDINGS

1. Tanner failed to state a claim against Grant County or Sheriff Del Garcia because the complaint did not specifically allege wrongdoing by either defendant; official-capacity claims against the sheriff were redundant of claims against the Sheriff's Office.
2. Tanner failed to state a § 1983 claim against the Grant County Sheriff's Office because he did not identify an express policy, widespread custom, or final policymaker responsible for the alleged constitutional injuries.
3. The allegations that the Sheriff's Office trespassed on Tanner's property without a warrant or exigent circumstances and damaged the property did not state a viable claim against the Sheriff's Office absent an identified municipal policy or custom.
4. Tanner failed to state a Fourteenth Amendment claim against the Sheriff's Office because, although the complaint alleged a deprivation of property and potentially material lack of notice, it did not identify a policy, custom, or final policymaker causing the deprivation.
5. The trespass allegations arising from the January 2024 boarding of Tanner's property were barred because Tanner submitted his tort-claim notice more than 180 days after the alleged occurrence.
6. The court relinquished supplemental jurisdiction over the October 2024 and March 2025 trespass allegations after dismissing all claims within its original jurisdiction, dismissing those allegations without prejudice.

7. Tanner was entitled to leave to amend the federal claims because amendment was not necessarily futile, although the January 2024 trespass allegations could not be cured by amendment.

KEY QUOTATIONS

“Yet a trespass is neither necessary nor sufficient to prove a constitutional violation.” (Discussion II.A)

“Counts I and II are DISMISSED with leave to amend. Count III is DISMISSED WITH PREJUDICE as to allegations of a January 2024 trespass. Count III is DISMISSED WITHOUT PREJUDICE as to allegations of trespass that occurred in October 2024 or later pending the filing of an amended complaint that establishes this Court’s jurisdiction.” (Conclusion)

FACTUAL BACKGROUND

Tanner co-owned property in Marion, Indiana, that the Grant County Sheriff’s Department boarded up in January 2024 after publicly describing the building as requiring security because of break-ins and a fire. Tanner alleged that the defendants entered the property without notice, caused extensive damage, and deprived him of income needed to pay property taxes, leading to a tax-sale notice in August 2025. He asserted Fourth and Fourteenth Amendment claims under § 1983 and a state-law trespass claim, including alleged additional trespasses in October 2024 and March 2025.

PROCEDURAL HISTORY

Tanner filed suit after the Grant County Sheriff’s Department boarded up his property and he received notice of a tax sale. The court previously denied his request for injunctive relief. Defendants moved to dismiss the remaining claims, and Tanner did not respond. The court granted the motion, dismissed the federal claims with leave to amend, dismissed the January 2024 trespass allegations with prejudice as time-barred, dismissed later trespass allegations without prejudice, and allowed amendment by January 16, 2026.

DISPOSITION

other

CASES CITED

- Swierkiewicz v. Sorema N. A., 534 U.S. 506, 508 n. 1 (2002)
- In re HealthCare Compare Corp. Sec. Litig., 75 F.3d 276, 279 (7th Cir. 1996)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555-56 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Erickson v. Pardus, 551 U.S. 89, 94 (2007)
- Hickey v. O’Bannon, 287 F.3d 656, 658 (7th Cir. 2002)
- Markley v. Walters, 790 F. Supp. 190, 191-92 (N.D. Ind. 1992)
- Ryan v. County of DuPage, 45 F.3d 1090, 1092 (7th Cir. 1995)
- Franklin v. Zaruba, 150 F.3d 682, 686 (7th Cir. 1998)

- *Monell v. Dep't of Soc. Servs. of City of New York*, 436 U.S. 658, 690, 694 (1978)
- *First Midwest Bank Guardian of Est. of LaPorta v. City of Chicago*, 988 F.3d 978, 986 (7th Cir. 2021)
- *Spiegel v. McClintic*, 916 F.3d 611, 617 (7th Cir. 2019)
- *United States v. Tolar*, 268 F.3d 530, 532 (7th Cir. 2001)
- *Albiero v. Town of Goodland, Ind.*, No. 4:11-CV-15-JVB, 2012 WL 13699, at *5 (N.D. Ind. Jan. 3, 2012)
- *Illinois v. Gates*, 462 U.S. 213, 236 (1983)
- *United States v. Ramirez*, 523 U.S. 65, 71 (1998)
- *Colbert v. City of Chicago*, 851 F.3d 649, 657 (7th Cir. 2017)
- *Groce v. Eli Lilly & Co.*, 193 F.3d 496, 501 (7th Cir. 1999)
- *Williams v. Rodriguez*, 509 F.3d 392, 404 (7th Cir. 2007)
- *Wright v. Associated Ins. Cos.*, 29 F.3d 1244, 1251-52 (7th Cir. 1994)
- *Duckworth v. Franzen*, 780 F.2d 645, 656-57 (7th Cir. 1985)
- *Graf v. Elgin, Joliet & E. Ry. Co.*, 790 F.2d 1341, 1347-48 (7th Cir. 1986)
- *Runnion ex rel. Runnion v. Girl Scouts of Greater Chi. & Nw. Ind.*, 786 F.3d 510, 519-20 (7th Cir. 2015)
- *Barry Aviation Inc. v. Land O'Lakes Mun. Airport Comm'n*, 377 F.3d 682, 687 (7th Cir. 2004)

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