

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Tamrat v. Mercado

Tamrat · No. 24-cv-08604-TLT · Decided June 4, 2025

SUMMARY

The United States District Court for the Northern District of California ordered service of Herman Tamrat’s pro se civil-rights complaint against Sergeant Kunaboot, Deputy Mercado, and Doe defendants. The court found cognizable claims involving excessive force, deliberate indifference, failure to intervene, bodily privacy, civil-rights conspiracy, negligence, assault, battery, intentional infliction of emotional distress, the Bane Act, and claims under the ADA and Rehabilitation Act. The court dismissed the section 1986 claim without prejudice and denied motions for injunctive relief and to stay the case.

CASE DETAILS

COURT	United States District Court for the Northern District of California
JURISDICTION	United States District Court for the Northern District of California
DECIDED	June 4, 2025
DOCKET	24-cv-08604-TLT
DISPOSITION	other
PROCEDURAL POSTURE	Screening of a pro se pretrial detainee's in forma pauperis civil-rights complaint under 28 U.S.C. § 1915A, together with motions for injunctive relief and to stay the case.
STANDARD OF REVIEW	Under 28 U.S.C. § 1915A, the court must identify cognizable claims and dismiss claims that are frivolous, malicious, fail to state a claim, or seek relief from an immune defendant. Pro se pleadings are liberally construed, but must satisfy Federal Rule of Civil Procedure 8(a)(2) and plausibly state a claim under Twombly and Iqbal. Requests for injunctive relief are evaluated under the Winter preliminary-injunction standard.
PRECEDENTIAL VALUE	Nonprecedential district-court order; precedential status not designated in the source metadata.
PARTIES	Herman Tamrat v. Mercado, Sergeant Kunaboot, Does 1-10

TOPICS

prisoners rights

section 1983

civil rights

ada / disability

injunctions

PRACTICE AREAS

civil rights

prisoner civil rights

constitutional torts

disability discrimination

civil procedure

state tort law

QUESTIONS PRESENTED

1. Whether the complaint stated cognizable Fourth and Fourteenth Amendment claims concerning excessive force, failure to intervene, deliberate indifference, and bodily privacy.
2. Whether the allegations stated claims under 42 U.S.C. §§ 1985 and 1986.
3. Whether the complaint stated claims under Title II of the Americans with Disabilities Act and § 504 of the Rehabilitation Act.
4. Whether the complaint stated the asserted California negligence, assault, battery, intentional-infliction-of-emotional-distress, and Bane Act claims.
5. Whether injunctive relief was warranted and whether the case should be stayed.

HOLDINGS

1. The complaint, liberally construed, stated cognizable claims sufficient to proceed past preliminary screening on the claims identified in the order.
2. The complaint stated cognizable Fourteenth Amendment claims against Kunaboot for failure to intervene, deliberate indifference, and bodily privacy, and against Mercado for excessive force and deliberate indifference; it also stated a cognizable Fourth or Fourteenth Amendment bodily-privacy claim against Kunaboot.
3. The complaint stated a cognizable § 1985 conspiracy claim against Kunaboot and Mercado.
4. The § 1986 claim was dismissed without prejudice because Tamrat did not allege a defendant who knew of the § 1985 conspiracy, had power to prevent it, and failed to do so.
5. The complaint stated cognizable Title II ADA and § 504 Rehabilitation Act claims against the defendants in their official capacities.
6. The complaint stated cognizable California claims for negligence or gross negligence against the named defendants, assault and battery against Mercado, intentional infliction of emotional distress against both named defendants, and a Bane Act claim against both named defendants.
7. The motion for injunctive relief was denied.
8. The motion to stay was denied.

KEY QUOTATIONS

“The elements of a pretrial detainee’s failure to intervene/protect claim under the Fourteenth Amendment are: (1) the defendant made an intentional decision with respect to the conditions under which the plaintiff was confined; (2) those conditions put the plaintiff at substantial risk of suffering serious harm; (3) the defendant did not take reasonable available measures to abate that risk, even though a reasonable official in the circumstances would have appreciated the high degree of risk involved; and (4) by not taking such measures, the defendant caused plaintiff’s injuries.” (Discussion § 3(a))

“Either form of injunctive relief requires a plaintiff to demonstrate (1) a likelihood of success on the merits, (2) a likelihood of irreparable harm that will result if an injunction is not issued, (3) the balance of equities tips in favor of the plaintiff, and (4) an injunction is in the public interest.” (Motion for Injunctive Relief)

FACTUAL BACKGROUND

Tamrat alleged that, before and during his transport and booking as a pretrial detainee, officers refused to provide a wheelchair despite his inability to walk, used force on his injured wrists, arms, and legs, and left him exposed in a hospital gown. He alleged that Sergeant Kunaboot failed to intervene and that Deputy Mercado participated in or directed the denial of a wheelchair and use of force. He also alleged related conspiracy, disability-discrimination, constitutional privacy, and California tort claims. Tamrat sought damages and injunctive relief concerning access to the courts, but he had been released from custody by the time of the order.

PROCEDURAL HISTORY

Tamrat filed a complaint under 42 U.S.C. § 1983 and related federal and state-law claims while proceeding pro se. The court screened the complaint, ordered service of the cognizable claims, dismissed the § 1986 claim without prejudice, denied injunctive relief, denied a motion to stay, and set procedures for service, discovery, and dispositive motions.

DISPOSITION

other

CASES CITED

- *Balistreri v. Pacifica Police Department*, 901 F.2d 696, 699 (9th Cir. 1990)
- *Erickson v. Pardus*, 551 U.S. 89, 93 (2007)
- *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555, 570 (2007)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009)
- *West v. Atkins*, 487 U.S. 42, 48 (1988)
- *Graham v. Connor*, 490 U.S. 386, 395 n.10 (1989)
- *Castro v. County of Los Angeles*, 833 F.3d 1060, 1069, 1071 (9th Cir. 2016) (en banc)
- *Pierce v. Multnomah County, Oregon*, 76 F.3d 1032, 1043 (9th Cir. 1996)
- *Cunningham v. Gates*, 229 F.3d 1271, 1289-90 (9th Cir. 2000)
- *Gordon v. County of Orange*, 888 F.3d 1118, 1125 (9th Cir. 2018)

- Alexander v. Nguyen, 78 F.4th 1140, 1144-46 (9th Cir. 2023)
- Vazquez v. County of Kern, 949 F.3d 1153, 1160 (9th Cir. 2020)
- Fontana v. Haskin, 262 F.3d 871, 880-81 (9th Cir. 2001)
- Leishman v. Washington Office of Attorney General, No. 24-2509, 2025 WL 957896, at *2 (9th Cir. Mar. 31, 2025)
- Olsen v. Idaho State Board of Medicine, 363 F.3d 916, 929 (9th Cir. 2004)
- Burns v. County of King, 883 F.2d 819, 821 (9th Cir. 1989)
- Thompson v. Davis, 295 F.3d 890, 895 (9th Cir. 2002)
- Bonner v. Lewis, 857 F.2d 559, 562-63 (9th Cir. 1988)
- Armstrong v. Wilson, 124 F.3d 1019, 1022-23 (9th Cir. 1997)
- Pugliese v. Dillenberg, 346 F.3d 937, 937-38 (9th Cir. 2003) (per curiam)
- Bell v. Williams, 108 F.4th 809, 826 (9th Cir. 2024)
- Harding v. City & County of San Francisco, 602 F. App'x 380, 383-84 (9th Cir. 2015)
- Giraldo v. California Department of Corrections & Rehabilitation, 168 Cal. App. 4th 231, 245 (2008)
- Kearl v. Board of Medical Quality Assurance, 189 Cal. App. 3d 1040, 1052 (Ct. App. 1986)
- So v. Shin, 212 Cal. App. 4th 652, 669 (2013)
- Cervantez v. J.C. Penney Co., 24 Cal. 3d 579, 593 (1979)
- Reese v. County of Sacramento, 888 F.3d 1030, 1040-44 (9th Cir. 2018)
- Gillespie v. Civiletti, 629 F.2d 637, 642 (9th Cir. 1980)
- Wiltsie v. California Department of Corrections, 406 F.2d 515, 518 (9th Cir. 1968)
- Velasquez v. Senko, 643 F. Supp. 1172, 1180 (N.D. Cal. 1986)
- Granny Goose Foods, Inc. v. Brotherhood of Teamsters & Auto Truck Drivers, 415 U.S. 423, 439 (1974)
- Stuhlbarg International Sales Co. v. John D. Brush & Co., 240 F.3d 832, 839 n.7 (9th Cir. 2001)
- Winter v. Natural Resources Defense Council, Inc., 555 U.S. 7, 20, 22 (2008)
- Caribbean Marine Services Co. v. Baldrige, 844 F.2d 668, 674 (9th Cir. 1988)
- Woods v. Carey, 684 F.3d 934, 935 (9th Cir. 2012)
- Albino v. Baca, 747 F.3d 1162, 1166, 1168 (9th Cir. 2014) (en banc)
- Wyatt v. Terhune, 315 F.3d 1108, 1119 (9th Cir. 2003)
- Rand v. Rowland, 154 F.3d 952, 962-63 (9th Cir. 1998)