

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
VIRGINIA, ROANOKE DIVISION

Kenneth E. Selvage v. Israel Hamilton et al.

Case No. 7:24-cv-00676 · No. 7:24-cv-00676 · Decided April 2, 2026

SUMMARY

The United States District Court for the Western District of Virginia partially grants and partially denies defendants’ motion to dismiss claims arising from a prison disciplinary proceeding. The court dismisses without prejudice the plaintiff’s Eighth Amendment claim and due process claims against two defendants, while allowing First Amendment claims and certain due process claims to proceed. The court dismisses with prejudice the request for restoration of good-time credits, monetary damages associated with due process claims, and official-capacity monetary damages.

CASE DETAILS

COURT	United States District Court for the Western District of Virginia, Roanoke Division
WRITING FOR THE COURT	Robert S. Ballou
JURISDICTION	United States District Court for the Western District of Virginia, Roanoke Division
DECIDED	April 2, 2026
DOCKET	7:24-cv-00676
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff brought a 42 U.S.C. § 1983 action concerning prison disciplinary proceedings. Defendants filed a partial motion to dismiss under Federal Rule of Civil Procedure 12(b)(6).
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true and determines whether the complaint states a facially plausible claim for relief. Pro se pleadings are liberally construed, but a pro se plaintiff must still allege facts stating a cause of action.
PRECEDENTIAL VALUE	Nonprecedential district court memorandum opinion
PARTIES	Kenneth E. Selvage v. Israel Hamilton, Thomas Meyer, M. Blankenship, D.K. Nichols, M.E. Cordle

TOPICS

section 1983

prisoners rights

motions to dismiss

due process

first amendment

PRACTICE AREAS

prisoner civil rights

constitutional law

civil procedure

prison disciplinary proceedings

habeas corpus

QUESTIONS PRESENTED

1. Whether the alleged two-year suspension of visitation and telephone privileges plausibly violated the First Amendment under *Turner v. Safley*.
2. Whether the disciplinary sanctions alleged by Selvage constituted cruel and unusual punishment under the Eighth Amendment.
3. Whether failure to identify the testing officer in the disciplinary report and approval of that report violated due process under the Fourteenth Amendment.
4. Whether a § 1983 action may seek restoration of good-time credits when the disciplinary conviction has not been invalidated.
5. Whether monetary damages associated with due process challenges to the disciplinary conviction are barred by *Heck v. Humphrey* and *Edwards v. Balisok*.
6. Whether monetary damages against defendants in their official capacities are barred by Eleventh Amendment immunity.

HOLDINGS

1. The complaint plausibly alleged that the two-year suspension of all visitation and telephone privileges, imposed for a first drug-related disciplinary conviction, may lack a reasonable relationship to legitimate penological interests or may constitute an exaggerated response. Dismissal of the First Amendment claim was therefore premature.
2. The court declined to resolve qualified immunity at the motion-to-dismiss stage because the constitutional validity of the restriction could not be determined without a factual record.
3. Selvage failed to state an Eighth Amendment claim because the loss of visitation, telephone privileges, good-time credits, increased security classification, and a \$25 fine were not alleged to be sufficiently serious deprivations or to involve deliberate indifference to a substantial risk of serious harm.
4. The failure to identify the testing officer in the initial disciplinary report, and Nichols's approval of the report, did not state a due process violation where Selvage received written notice of the charges and an opportunity to request witnesses.
5. A § 1983 action seeking restoration of good-time credits is barred when success would affect the duration of the prisoner's sentence and the disciplinary conviction has not been invalidated; the proper federal remedy is habeas corpus under 28 U.S.C. § 2254.
6. Selvage's claims for monetary damages based on alleged due process defects in the disciplinary proceedings were barred by *Heck* and *Edwards* because success would necessarily imply the invalidity

of the disciplinary conviction and loss of good-time credits.

7. Claims for monetary damages against the defendants in their official capacities were barred by Eleventh Amendment immunity and were dismissed.

KEY QUOTATIONS

“Under Turner, a prison restriction that impinges on inmates’ First Amendment rights is valid if it is “reasonably related to legitimate penological interests.”” (III.a.1)

“Wolff does not require that a disciplinary report identify by name every potential witness or every officer involved in the underlying incident; rather, it requires only that an inmate receive advance written notice of the charges and an opportunity to call witnesses.” (III.c)

“A § 1983 action seeking restoration of good time credits is therefore barred.” (III.d)

FACTUAL BACKGROUND

Selvage, incarcerated at Keen Mountain Correctional Center, was charged with being under the influence of unprescribed drugs after a urine test allegedly showed buprenorphine/naloxone. He alleged that the disciplinary report omitted the officer who administered the test, that his requests for witnesses and evidence were not received, and that the hearing officer found him guilty based principally on testimony from an officer who did not administer or know the result of the test. Selvage received substantial sanctions, including two years without in-person, video, or telephone visits, loss of good-time credits, an increased security level, and a fine; prison administrators upheld the conviction on appeal.

PROCEDURAL HISTORY

Selvage, a Virginia inmate proceeding pro se, challenged a disciplinary conviction and resulting sanctions arising from a positive drug test. Defendants moved to dismiss several constitutional claims and categories of relief. The court granted the motion in part and denied it in part, dismissing some claims and remedies while allowing the First Amendment claim and due process claims against Cordle, Hamilton, and Meyer to proceed.

DISPOSITION

other

CASES CITED

- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Booker v. South Carolina Department of Corrections, 855 F.3d 533, 540 (4th Cir. 2017)
- Erickson v. Pardus, 551 U.S. 89, 94 (2007)
- Smith v. Smith, 589 F.3d 736, 738 (4th Cir. 2009)
- Beaudett v. City of Hampton, 775 F.2d 1274, 1278 (4th Cir. 1985)
- Scarborough v. Frederick County School Board, 517 F. Supp. 3d 569, 575 (W.D. Va. 2021)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007)

- Garrett v. Elko, No. 95-7939, 1997 WL 457667, at *1 (4th Cir. 1997)
- Gordon v. Leeke, 574 F.2d 1147, 1149-51 (4th Cir. 1978)
- Smith v. Blackledge, 451 F.2d 1201, 1202 (4th Cir. 1971)
- Turner v. Safley, 482 U.S. 78, 87, 89-90 (1987)
- Overton v. Bazzetta, 539 U.S. 126, 129-30, 132, 137 (2003)
- Pell v. Procunier, 417 U.S. 817, 822 (1974)
- Ford v. Northam, No. 7:22-CV-00122, 2023 WL 2767780, at *13 (W.D. Va. Mar. 31, 2023)
- Wilson v. Seiter, 501 U.S. 294, 298 (1991)
- Rhodes v. Chapman, 452 U.S. 337, 347 (1981)
- Farmer v. Brennan, 511 U.S. 825, 828 (1994)
- Williams v. Benjamin, 77 F.3d 756, 761 (4th Cir. 1996)
- Hudson v. McMillian, 503 U.S. 1, 5 (1992)
- Diggs v. Johnson, No. 7:24-CV-00361, 2024 WL 4681622, at *4 (W.D. Va. Nov. 5, 2024)
- Boone v. Cartledge, No. CA 2:13-1588-JFA-WWD, 2014 WL 3687399, at *6 (D.S.C. July 23, 2014)
- Riddick v. Mickles, No. 7:20-CV-00559, 2023 WL 2759069, at *5 (W.D. Va. Mar. 31, 2023)
- Robinson v. California, 370 U.S. 660, 667 (1962)
- Powell v. Texas, 392 U.S. 514, 532 (1968)
- Rummel v. Estelle, 445 U.S. 263, 272 (1980)
- United States v. Francois, 889 F.2d 1341, 1343 (4th Cir. 1989)
- Wolff v. McDonnell, 418 U.S. 539, 556, 564-71 (1974)
- Turner v. Lane, No. 88-2589, 1991 WL 222208, at *2 (7th Cir. Oct. 22, 1991)
- Gregory v. Ward, No. C.A. 3:02-0044-25BC, 2003 WL 22989024, at *4 (D.S.C. Feb. 25, 2003)
- Heck v. Humphrey, 512 U.S. 477, 486-87 (1994)
- Edwards v. Balisok, 520 U.S. 641, 646-48 (1997)
- Preiser v. Rodriguez, 411 U.S. 475, 500 (1973)
- Pierce v. Freeman, No. 95-7031, 1997 WL 467533, at *2 (4th Cir. Aug. 15, 1997)
- Carey v. Piphus, 435 U.S. 247, 266 (1978)
- Amin v. Pruett, 930 F. Supp. 1121, 1125 (E.D. Va. 1996)
- Hebrard v. Nofziger, 90 F.4th 1000, 1010 (9th Cir. 2024)
- Wilkinson v. Dotson, 544 U.S. 74, 81 (2005)
- Moskos v. Hardee, 24 F.4th 289, 295-96 (4th Cir. 2022)
- Will v. Michigan Department of State Police, 491 U.S. 58, 71 (1989)
- Quern v. Jordan, 440 U.S. 332, 345 (1979)
- Madden v. Virginia, No. 3:11CV241-HEH, 2011 WL 2559913, at *3 (E.D. Va. June 28, 2011)