

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

Clinton v. Allen

No. 3:23-cv-01471-CAB-SBC (S.D. Cal. May 20, 2025) · No. 3:23-cv-01471-CAB-SBC · Decided May 20, 2025

SUMMARY

The United States District Court for the Southern District of California granted Defendants’ motion to dismiss Plaintiff’s Second Amended Complaint in part with prejudice. The court dismissed previously rejected claims, Doe defendants, and other claims for failure to state a claim or because further amendment would be futile. The court allowed an Eighth Amendment failure-to-protect claim against Colon and Bingham and conspiracy allegations against Colon, Allen, and Bingham to proceed.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Cathy Ann Bencivengo
JURISDICTION	United States District Court for the Southern District of California
DECIDED	May 20, 2025
DOCKET	3:23-cv-01471-CAB-SBC
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss Plaintiff's Second Amended Complaint in a prisoner civil-rights action.
STANDARD OF REVIEW	Under Federal Rule of Civil Procedure 12(b)(6), a complaint must contain sufficient factual matter to state a claim for relief that is plausible on its face; vague and conclusory allegations are insufficient.
PRECEDENTIAL VALUE	unpublished, nonprecedential district-court order
PARTIES	Markeith Clinton v. C. Allen, Colon, Bingham, John Does 1-3, Jane Doe 4

TOPICS

- motions to dismiss
- section 1983
- prisoners rights
- civil rights
- constitutional law

PRACTICE AREAS

civil procedure

civil rights

prisoner civil rights

QUESTIONS PRESENTED

1. Whether the Second Amended Complaint plausibly stated claims under Federal Rule of Civil Procedure 12(b)(6).
2. Whether Plaintiff's previously dismissed claims should again be dismissed with prejudice because further amendment would be futile.
3. Whether the remaining Doe defendants should be dismissed because Plaintiff did not include them in the Second Amended Complaint or specifically identify their individual conduct.

HOLDINGS

1. A complaint must contain sufficient factual matter to state a claim for relief that is plausible on its face, and vague and conclusory allegations of government involvement in civil-rights violations are insufficient. Applying that standard, the court granted Defendants' motion to dismiss in part.
2. The claims based on Fourteenth Amendment failure to protect, the Americans with Disabilities Act, Fourteenth Amendment equal protection, First Amendment retaliation, Eighth Amendment inadequate medical care, and criminal and administrative law were dismissed with prejudice because further amendment would be futile.
3. The remaining Doe defendants were dismissed because Plaintiff did not include them in the Second Amended Complaint and did not specifically identify individual conduct connecting them to an alleged constitutional violation.

KEY QUOTATIONS

“To survive a motion to dismiss, a complaint must contain sufficient factual matter . . . to ‘state a claim for relief that is plausible on its face.’” (at 1)

“Vague and conclusory allegations” concerning government involvement in civil rights violations are insufficient to withstand a motion to dismiss.” (at 1)

“[A]n amended pleading supersedes the original pleading.” (at 2)

FACTUAL BACKGROUND

Plaintiff, proceeding pro se, alleged that correctional officers failed to protect him from known and substantial risks of harm and conspired to deprive him of that protection. He also asserted claims based on the Fourteenth Amendment, the Americans with Disabilities Act, equal protection, First Amendment retaliation, inadequate medical care, and criminal and administrative law. In the Second Amended Complaint, Plaintiff identified Colon and Bingham but did not include the remaining Doe defendants.

PROCEDURAL HISTORY

The court previously dismissed Plaintiff's amended complaint but granted leave to amend. After screening the First Amended Complaint, the court allowed an Eighth Amendment failure-to-protect claim against John Does 1 and 2 and a conspiracy claim involving Allen, Colon, John Does 1-3, and Jane Doe 4 to proceed. Plaintiff amended to identify Colon and Bingham, filed a Second Amended Complaint, and Defendants moved to dismiss. The court granted the motion in part, dismissed several claims with prejudice, dismissed the remaining Doe defendants, and allowed the identified Eighth Amendment claims against Colon, Allen, and Bingham to proceed.

DISPOSITION

other

CASES CITED

- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)
- Ivey v. Bd. of Regents of Univ. of Alaska, 673 F.2d 266, 268 (9th Cir. 1982)
- Fifty Associates v. Prudential Ins. Co., 446 F.2d 1187, 1191 (9th Cir. 1970)
- Taylor v. List, 880 F.2d 1040, 1045 (9th Cir. 1989)
- Ferdik v. Bonzelet, 963 F.2d 1258, 1262 (9th Cir. 1992)

OPINION

Clinton v. Allison

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 MARKEITH CLINTON, Case No.: 3:23-cv-01471-CAB-SBC 12 Plaintiff,

ORDER GRANTING MOTION TO

13 v. DISMISS

14 C. ALLEN, et al., [Doc. Nos. 47, 59] 15 Defendants. 16

17 I. PROCEDURAL BACKGROUND

18 The Court previously dismissed Plaintiff’s amended complaint but gave Plaintiff 19
(proceeding pro se) leave to file an amended complaint. Defendant-Officers Allen, Colon, 20 and
Bingham have filed a motion to dismiss Plaintiff’s Second Amended Complaint 21 (SAC). [Doc.
No. 47.] The Court grants Defendants’ motion and partially dismisses the 22 SAC with prejudice.

23 II. PROCEDURAL BACKGROUND

24 The Court screened Plaintiff’s FAC and permitted only two causes of action to 25 proceed: (1)
an Eighth Amendment failure to protect claim against John Does 1 and 2 and 26 (2) a conspiracy
claim to deprive Plaintiff of his Eighth Amendment right to protection 27 from known and

substantial risks of harm involving Defendants Allen, Colon, John Does 28 1-3, and Jane Doe 4. [Doc. No. 20.] Plaintiff then moved to file an amended complaint to 1 identify Defendant Colon as John Doe 1 and Defendant Bingham as John Doe 2. [Doc.

2 No. 39.] The Court granted leave to amend and Plaintiff filed his SAC. [Doc. No. 44.]

3 Defendant Bingham waived service and entered an appearance in this case. [See Doc. No. 4 60.]

5 III. ANALYSIS

6 The Court does not rehash the facts alleged here, only noting that they are similar to 7 those pleaded in the originally dismissed complaint. The familiar standard applies for a 8 motion to dismiss. Fed. R. Civ. P. 12(b)(6) permits a party to file a motion to dismiss for 9 “failure to state a claim upon which relief can be granted.” “To survive a motion to dismiss, 10 a complaint must contain sufficient factual matter . . . to ‘state a claim for relief that is 11 plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. 12 v. Twombly*, 550 U.S. 544, 570 (2007)). “Vague and conclusory allegations” concerning 13 government involvement in civil rights violations are insufficient to withstand a motion to 14 dismiss. *Ivey v. Bd. of Regents of Univ. of Alaska*, 673 F.2d 266, 268 (9th Cir. 1982). 15 Plaintiff’s SAC still contains causes of action that the Court previously dismissed 16 when it screened the FAC. No new facts require an alternative outcome. The Court again 17 dismisses Plaintiff’s claims based on failure to protect based on the Fourteenth 18 Amendment, ADA and equal protection under the Fourteenth Amendment, retaliation 19 under the First Amendment, inadequate medical care under the Eighth Amendment, and 20 criminal law and administrative law claims. [See Doc. No. 10.] This dismissal is with 21 prejudice since further amendment would be futile. 22 Second, Plaintiff does not include any Doe Defendants (or Defendants other than 23 Colon, Allen, and Bingham) in the SAC. The use of Doe Defendants is not favored in the 24 Ninth Circuit. See *Fifty Associates v. Prudential Ins. Co.*, 446 F.2d 1187, 1191 (9th Cir. 25 1970). To plead a claim against a doe defendant in the Section 1983 context, a plaintiff 26 must specifically identify individual conduct that led to an alleged constitutional violation. 27 See *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989) (the inquiry into causation is 28 individualized). All remaining Doe Defendants are dismissed from this case with 1 || prejudice. See *Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992) (“[A]n amended 2 || pleading supersedes the original pleading.”).

3 IV. CONCLUSION

4 The only live claims in the operative complaint, the SAC, are (1) an Eighth 5 Amendment failure to protect claim against Defendants Colon and Bingham and (2) the 6 ||conspiracy allegations against Colon, Allen, and Bingham. All other Defendants are 7 ||terminated from this case. The remaining Defendants should respond to the identified 8 ||claims by June 3, 2025. The Clerk of the Court is directed to change the caption to reflect 9 ||the proper spelling of Defendant Bingham (“Officer P. Bingham”). 10 11 It is SO ORDERED. 12 € Z 13 || Dated 5/20/2025 Hon. Cathy Ann Bencivengo 14 United States District Judge 15 16 17 18 19 20 21 22 23 24 25 26 27 28

