

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
DAKOTA, SOUTHERN DIVISION

Norman Lee Gunn v. Kipp Stearns

Gunn · No. 4:25-CV-04034-ECS · Decided June 4, 2026

SUMMARY

The United States District Court for the District of South Dakota denied Kipp Stearns’s motion to dismiss Norman Lee Gunn’s remaining due process claims. The claims concern alleged lack of notice before Gunn’s vehicle was impounded and the alleged retention of the vehicle for 111 days after criminal charges were dismissed. The court held that, at the motion-to-dismiss stage, it was required to accept Gunn’s allegations as true and ordered Stearns to answer.

CASE DETAILS

COURT	United States District Court for the District of South Dakota, Southern Division
WRITING FOR THE COURT	Eric C. Schulte
JURISDICTION	United States District Court for the District of South Dakota, Southern Division
DECIDED	June 4, 2026
DOCKET	4:25-CV-04034-ECS
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved to dismiss a pro se civil-rights complaint under Federal Rule of Civil Procedure 12(b)(6). The court denied the motion and ordered the defendant to answer the surviving claims.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true, draws reasonable inferences in the plaintiff's favor, and determines whether the complaint contains sufficient factual matter to state a plausible claim for relief. Legal conclusions need not be accepted as true.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

- motions to dismiss
- procedural due process
- due process
- civil rights
- civil procedure

PRACTICE AREAS

civil procedure

civil rights

constitutional law

QUESTIONS PRESENTED

1. Whether Gunn's surviving Fourteenth Amendment due-process claims concerning the lack of notice and opportunity to challenge the impoundment and the allegedly prolonged retention of his vehicle stated a plausible claim under Rule 12(b)(6).
2. Whether the court could consider factual assertions in Stearns's motion that were not contained in the complaint.

HOLDINGS

1. The complaint plausibly stated Fourteenth Amendment due-process claims because Gunn alleged deprivation of a protected property interest without adequate notice or an opportunity to challenge the seizure and alleged Stearns's involvement in retaining the vehicle for 111 days.
2. The court could not rely on Stearns's assertion that Gunn was told to pay the towing bill and provide proof of registration because those facts were not contained in the complaint.

KEY QUOTATIONS

“To survive a motion to dismiss [under Rule 12(b)(6)], a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” (Discussion)

“A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” (Discussion)

FACTUAL BACKGROUND

Gunn alleged that Stearns stopped him twice for driving without license plates and, during the second stop, impounded his vehicle. Gunn alleged that his pistol was in the vehicle, that the vehicle was retained for 111 days after criminal charges were dismissed, and that he was not given adequate notice or an opportunity to challenge the seizure. Stearns asserted that Gunn was told to pay the towing bill and provide proof of registration, but those facts were not alleged in the complaint.

PROCEDURAL HISTORY

Gunn filed a pro se civil-rights action and was granted leave to proceed in forma pauperis. The court screened the complaint under 28 U.S.C. § 1915(e)(2)(B), dismissing several claims but allowing individual-capacity due-process claims for damages based on allegedly inadequate pre-deprivation notice and retention of Gunn's vehicle to proceed. Defendant Stearns moved to dismiss, and the court construed Gunn's untimely objection as a response and considered it because Stearns did not object to its untimeliness.

DISPOSITION

other

CASES CITED

- Erickson v. Pardus, 551 U.S. 89, 94 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 556, 570 (2007)
- Retro Television Network, Inc. v. Luken Commc'ns, LLC, 696 F.3d 766, 768-69 (8th Cir. 2012)
- E-Shops Corp. v. U.S. Bank Nat'l Ass'n, 678 F.3d 659, 662 (8th Cir. 2012)
- Allen v. City of Kinloch, 763 F.2d 335, 336 (8th Cir. 1985)

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