

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

Gina K. Seabrook, f/k/a Gina K. Covington v. Pete Hegseth,
Secretary of Department of War

Seabrook · No. 2:25-cv-01133 · Decided December 30, 2025

SUMMARY

The United States District Court for the District of Utah screens a pro se plaintiff’s Bivens complaint under 28 U.S.C. § 1915 and Federal Rule of Civil Procedure 12(b)(6). The court concludes that the complaint does not identify a constitutional violation, the capacity in which the defendant is sued, or specific actionable conduct by the defendant. The court permits the plaintiff to file an amended complaint by January 19, 2026.

CASE DETAILS

COURT	United States District Court for the District of Utah
WRITING FOR THE COURT	Dustin B. Pead
JURISDICTION	United States District Court for the District of Utah
DECIDED	December 30, 2025
DOCKET	2:25-cv-01133
DISPOSITION	other
PROCEDURAL POSTURE	The court screened Plaintiff's pro se complaint under 28 U.S.C. § 1915(e)(2)(B)(ii), applying the Federal Rule of Civil Procedure 12(b)(6) plausibility standard, and found that the complaint failed to state a plausible Bivens claim. Rather than dismissing immediately, the court granted Plaintiff leave to amend.
STANDARD OF REVIEW	The court applied the Rule 12(b)(6) standard during screening under 28 U.S.C. § 1915(e)(2)(B)(ii), accepting well-pleaded factual allegations as true and assessing whether the complaint plausibly stated a claim. Pro se pleadings were construed liberally, but the court would not supply missing facts or construct an unpleaded legal theory.
PRECEDENTIAL VALUE	unpublished
PARTIES	Gina K. Seabrook, f/k/a Gina K. Covington v. Pete Hegseth, Secretary of Department of War

TOPICS

pleadings

motions to dismiss

civil procedure

civil rights

government liability

PRACTICE AREAS

civil procedure

constitutional law

civil rights

federal employment law

QUESTIONS PRESENTED

1. Whether Plaintiff's complaint stated a plausible claim for relief under Bivens.
2. Whether the complaint satisfied Federal Rule of Civil Procedure 8(a)(2) and the Rule 12(b)(6) pleading standard.
3. Whether Plaintiff should be given an opportunity to amend before dismissal under the in forma pauperis screening statute.

HOLDINGS

1. The complaint failed to state a plausible Bivens claim because it did not identify a constitutional violation, specify the capacity in which Defendant was sued, or allege intelligible facts connecting Defendant to the alleged harm.
2. The complaint failed to satisfy the minimum pleading requirements of Rule 8(a)(2) and failed to state a claim under Rule 12(b)(6) because its allegations were conclusory and did not provide a plausible factual basis for relief.
3. The court granted Plaintiff an opportunity to file an amended complaint because the pleading deficiencies might be curable and amendment was not shown to be futile at that stage.

KEY QUOTATIONS

“A Bivens action “seeks to impose personal liability and damages on a federal official for the violation of a federal constitutional right.””

“to state a claim in federal court, a complaint must explain what each defendant did to him or her; when the defendant did it; how the defendant’s action harmed him or her; and, what specific legal right the plaintiff believes the defendant violated.”

“The broad reading of [a pro se] plaintiff’s complaint does not relieve the plaintiff of the burden of alleging sufficient facts on which a recognized legal claim could be based.”

FACTUAL BACKGROUND

Plaintiff alleged that supervisors and managers at her workplace issued suspensions, reprimands, counseling, and an advance notice of separation relating to alleged absenteeism and a Western Union matter. She also alleged that a supervisor sent emails concerning the condition of her facility while she was on leave. Plaintiff named Pete Hegseth as the defendant, but did not allege specific actions by him, identify a constitutional right that he allegedly violated, or state whether he was sued in his individual or official capacity.

PROCEDURAL HISTORY

Plaintiff filed a complaint alleging employment-related disciplinary actions and asserting a Bivens claim against Pete Hegseth. The court temporarily granted Plaintiff leave to proceed in forma pauperis and then screened the complaint. The court ordered Plaintiff to file an amended complaint by January 19, 2026, warning that failure to do so could result in dismissal.

DISPOSITION

other

CASES CITED

- Bivens v. Six Unknown Named Agents, 403 U.S. 388, 91 S. Ct. 1999, 29 L. Ed. 2d 619 (1971)
- Kay v. Bemis, 500 F.3d 1214, 1217-18 (10th Cir. 2007)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-57 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- U.S. ex rel. Lemmon v. Envirocare of Utah, Inc., 614 F.3d 1163, 1171 (10th Cir. 2010)
- Monument Builders of Greater Kansas City, Inc. v. American Cemetery Ass'n of Kansas, 891 F.2d 1471, 1480 (10th Cir. 1990)
- Hall v. Bellmon, 935 F.2d 1106, 1110 (10th Cir. 1991)
- Ledbetter v. City of Topeka, Kan., 318 F.3d 1183, 1187 (10th Cir. 2003)
- Dunn v. White, 880 F.2d 1188, 1197 (10th Cir. 1989) (per curiam)
- Chapoose v. Hodel, 831 F.2d 931, 935 (10th Cir. 1987)
- Smith v. Kitchen, 561 F.3d 1099 (10th Cir. 2009)
- Allison v. Boulder County BCSO, 2025 U.S. App. LEXIS 19270, at *4, *7 (10th Cir. July 31, 2025)

OPINION

IN THE UNITED STATE DISTRICT COURT STATE OF UTAH GINA K. SEABROOK, f/k/a GINA K. COVINGTON, MEMORANDUM DECISION & ORDER TO AMEND COMPLAINT Plaintiff, Case No. 2:25-cv-01133 vs. PETE HEGSETH, Secretary of Magistrate Judge Dustin B. Pead Department of War, Defendant.

Before the court is pro se Plaintiff Gina K. Seabrook (“Ms. Seabrook”) complaint.¹ Ms. Seabrook was granted leave to temporarily proceed in forma pauperis under 28 U.S.C § 1915 (“IFP Statute”) while the court screens her pleading.² Accordingly, the court now reviews the sufficiency of Ms. Seabrook’s complaint under the authority of the IFP Statute. Based upon the analysis set forth below, the court orders Mr. Seabrook to file an amended complaint no later than January 19, 2026.

¹ ECF No. 1, Complaint. BACKGROUND Ms. Seabrook names Pete Hegseth as the Defendant (“Mr. Hegseth”) in this action.³ Plaintiff’s complaint contains the following allegation in support of her claim: Acting General Manager Christina Griffin presented [Ms. Seabrook] with Advance

Notice of 4 day Suspension without pay AWOL accusation while on approved leave. New General Manager Melanie White presented [Ms.

Seabrook] with [a] Final Suspension Notice in April 2019[, and] a Written Reprimand in Aug 2019. At a later date 12 June 2020 [Melanie White] [p]resented [Ms. Seabrook] with an Advance Notice of Separation for Cause for Western Union accusation which was reduced to a 5 day Suspension without pay. New General Manager Tammy Hairston presented [Ms. Seabrook] with a Written Counseling stating [Ms.

Seabrook] was 261 days passed [sic] an initial Western Union suspense. On or around 27 July 2022 Ms[.] Hariston sent emails to [Ms. Seabrook] while on leave stating the condition of [Ms. Seabrook's] facility and that the Supervisors who [Ms. Seabrook] had left in charge did not know how to run a facility.

The following listed below have witnessed actions of Sr. Leadership, Shift Supervisory Merceydece Quinney, Shift Supervisor Angenette Johnson, Shift Supervisor Sheena Lamphere, Camp Manager Shaun Parrisor[, and] Laborer Amber Kubat[.] Based on these allegations, Ms. Seabrook alleges a Bivens claim and seeks punitive damages and fees for medical bills, legal bills and back pay.⁴ LEGAL STANDARDS To review Ms. Seabrook's complaint under the authority of the IFP Statute, the court must consider the standard under Fed.

R. Civ. P. 12(b)(6) regarding the failure to state a claim on which relief can be granted.⁵ This legal standard is addressed below. ² ECF No. 5, Order Temporarily Granting Motion to Proceed IFP; 28 U.S.C. § 1915. ³ See generally, ECF No. 1. ⁴ ECF No. 1 at 3, ⁶. See *Bivens v. Six Unknown Named Agents*, 403 U.S. 388, 91 S. Ct. 1999, 29 L. Ed. 2d 619 (1971). ⁵ Fed.

R. Civ. P. 12(b)(6). 1. Failure to State a Claim Whenever the court authorizes a party to proceed without payment of fees under the IFP Statute, the court is required to “dismiss the case at any time if the court determines that... the action... fails to state a claim on which relief may be granted.”⁶ In determining whether a complaint fails to state a claim for relief under the IFP Statute, the court employs the same standard used for analyzing motions to dismiss for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6).⁷ Under that standard, the court “look[s] for plausibility in th[e] complaint.”⁸ More specifically, the court “look[s] to the specific allegations in the complaint to determine whether they plausibly support a legal claim for relief.

Rather than adjudging whether a claim is ‘improbable’ ‘[f]actual allegations [in a complaint] must be enough to raise a right to relief above the speculative level.’”⁹ Additionally, Federal Rule of Civil Procedure 8 is incorporated in the court's Rule 12(b)(6) analysis.¹⁰ Rule 8(a)(2) requires that a complaint contain “a short and plain statement of the claim showing that the pleader is entitled to relief.”¹¹ “A pleading that offers ‘labels and conclusions’ or ‘a formulaic recitation of the elements of a cause of action will not do.’ Nor does 6 28 U.S.C. § 1915(e)(2)(B)(ii).

7 Fed. R. Civ. P. 12(b)(6); *Kay v. Bemis*, 500 F.3d 1214, 1217-18 (10th Cir. 2007). 8 Id. at 1218 (quotations and citations omitted) (second alteration in original). 9 Id. (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555-56, 127 S. Ct. 1955, 167 L. Ed. 2d 929 (2007)) (other quotations and citation omitted) (second and third alterations in original). 10 U.S. ex. rel.

Lemmon v. Envirocare of Utah, Inc., 614 F.3d 1163, 1171 (10th Cir. 2010); Fed. R. Civ. P. 8. 11 Fed. R. Civ. P. 8(a)(2). a complaint suffice if it tenders ‘naked assertion[s]’ devoid of ‘further factual enhancement.’”¹² “Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.”¹³ Rule 8 requires, at least, that the allegations of a complaint put the defendant on fair notice of the claims raised.¹⁴ The twin purposes of a complaint are to give the opposing party fair notice of the basis for the claims so defendant may respond and to allow the court to conclude that the allegations, if proven, show that the plaintiff is entitled to relief.¹⁵ In analyzing Ms. Seabrook’s complaint, the court is mindful that she is proceeding pro se and that “[a] pro se litigant’s pleadings are to be construed liberally and held to a less stringent standard than formal pleadings drafted by lawyers.”¹⁶ However, it is not “the proper function of the district court to assume the role of advocate for the pro se litigant,”¹⁷ and the court “will not supply additional facts, nor will [it] construct a legal theory for [a pro se] plaintiff that assumes facts that have not been pleaded.”¹⁸ Indeed, as the Court of Appeals for the Tenth Circuit stated, [t]he broad reading of [a pro se] plaintiff’s complaint does not relieve the plaintiff of the burden of alleging sufficient facts on which a recognized legal claim could be based....

[C]onclusory allegations without supporting factual averments are insufficient to state a claim on which relief can be based. This is so because a pro se plaintiff requires no special legal training to recount the facts surrounding his 12 *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S. Ct. 1937, 173 L. Ed. 2d 868 (2009) (quoting *Twombly*, 550 U.S. at 557) (alteration in original).

13 Id. 14 *Twombly*, 550 U.S. at 555. 15 *Monument Builders of Greater Kan. City, Inc. v. Am. Cemetery Ass’n. of Kan.*, 891 F.2d 1471, 1480 (10th Cir. 1989). 16 *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991); see e.g., *Ledbetter v. City of Topeka, Kan.*, 318 F.3d 1183, 1187 (10th Cir. 2003). 17 Id. at 1110 (citation omitted). 18 *Dunn v. White*, 880 F.2d 1188, 1197 (10th Cir.

1989) (per curiam). alleged injury, and he must provide such facts if the court is to determine whether he makes out a claim on which relief can be granted. Moreover, in analyzing the sufficiency of the plaintiff’s complaint, the court need accept as true only the plaintiff’s well-pleaded factual contentions, not his conclusory allegations.¹⁹ After reviewing a pro se plaintiff’s complaint under the IFP Statute, the court may dismiss the complaint for failure to state a claim “only where it is obvious that the plaintiff cannot prevail on the facts he has alleged[,] and it would be futile to give [him] an opportunity to amend.”²⁰ ANALYSIS Ms. Seabrook’s complaint is subject to dismissal because she fails to state a plausible claim for relief under *Bivens*.

However, because Ms. Seabrook may be able to cure this deficiency with adequate allegations in an amended pleading, the court provides Plaintiff with the opportunity to do so. 1. Ms. Seabrook's Complaint Fails to State a Plausible Claim for Relief Under Bivens.

After reviewing Ms. Seabrook's complaint, the court concludes that the factual allegations are conclusory in nature and fail to state a claim or satisfy the minimum pleading standards under Federal Rule 8(a)(2) and Federal Rule 12(b)(6).²¹ First, Ms. Seabrook fails to state a claim under Bivens because she has not identified the violation of any federal constitutional right.

A Bivens action "seeks to impose personal liability and damages on a federal official for the violation of a federal constitutional right."²² Here, other than indicating that the basis for federal jurisdiction is her Bivens claim, Ms. Seabrook has not 19 *Bellmon*, 935 F.2d at 1110 (citations omitted). 20 *Kay*, 500 F.3d at 1217 (quotations and citation omitted).

²¹ Fed. R. Civ. P. 8(a)(2); Fed. R. Civ. P. 12(b)(6). ²² *Chapoose v. Hodel*, 831 F.2d 931, 935 (10th Cir. 1987). alleged any constitutional rights that were violated.²³ Second, a Bivens claim "can be brought only against federal officials in their individual capacities."²⁴ Yet, Ms. Seabrook's complaint does not indicate in what capacity she sues Mr. Hegseth.

Finally, Ms. Seabrook fails to make any specific or intelligible allegations about Mr. Hegseth's alleged actions, when they occurred or how they harmed her. Indeed, "to state a claim in federal court, a complaint must explain what each defendant did to him or her; when the defendant did it; how the defendant's action harmed him or her; and, what specific legal right the plaintiff believes the defendant violated."²⁵ Other than naming Mr. Hegseth as Defendant, Ms. Seabrook's complaint is completely devoid of any factual allegations against him..

As a result, Plaintiff's complaint must be dismissed for failure to satisfy Rule 8's requirements and failure to state a plausible claim.²⁶ However, as discussed below, the court permits Mr. Seabrook to amend her complaint. 2.

The Court Permits Ms. Seabrook to Amend Her Complaint. Based upon the foregoing analysis, Ms. Seabrook's complaint fails to state a plausible claim for relief. Yet dismissal is proper only "if it is obvious that [she] cannot prevail on the facts [s]he has alleged and it would be futile to give [her] an opportunity to amend."²⁷ Accordingly, the court affords Ms. Seabrook an opportunity to amend her complaint.

Consistent therewith, the 23 ECF No. 1 at 3. ²⁴ *Smith*, 561 F.3d at 1099 ("Bivens claims cannot be asserted directly against the United States, federal officials in their official capacity or federal agencies.") (internal citations omitted). ²⁵ *Allison v. Boulder County Bcso*, 2025 U.S. App. LEXIS 19270, at *4 (10th Cir. July 31, 2025) (citing *Nasious v. Two Unknown B.I.C.E.*

Agents, 492 F.3d 1158, 1163 (10th Cir. July 3, 2007)). 26 Allison, at *7 (“But failure to satisfy Rule 8’s requirements essentially results in a failure to state a claim upon which relief may be granted.”). 27 Kay, 500 F.3d at 1217 (quotations and citation omitted). court orders Mr. Seabrook to submit an amended complaint no later than January 19, 2026. Once received, the court will address whether Ms. Seabrook’s amended complaint states a claim for relief.

If it fails to do so, it will be subject to dismissal with prejudice. CONCLUSION AND ORDER
The court ORDERS as follows: 1. Ms. Seabrook is ordered to file an amended complaint by January 19, 2026. The words “Amended Complaint” should appear in the caption of the documents. 2. Once filed, the court will screen the proposed amended complaint under 28 U.S.C. §1915 and DUCivR 3-2(b).

3. Ms. Seabrook’s failure to file an amended complaint may result in dismissal of this action. 4. Ms. Seabrook’s motion to proceed in forma pauperis is TEMPORARILY GRANTED.” IT IS SO ORDERED DATED this 30th day of December, 2025. BY THE COURT DUSTIN B. PHAD
Magistrate Judge United States District Court 28 ECF No. 2.