

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
KENTUCKY, PADUCAH DIVISION

Karim Zein v. Lt. Delvin F. Nielsen, et al.

Zein · No. 5:26-CV-00014-JHM · Decided May 22, 2026

SUMMARY

The United States District Court for the Western District of Kentucky screened Karim Zein’s 42 U.S.C. § 1983 complaint under 28 U.S.C. § 1915A. The court dismissed the official-capacity, equal-protection, supervisory-liability, and verbal-threat claims, while allowing individual-capacity Eighth Amendment excessive-force and failure-to-protect claims and Fourth Amendment strip-search claims to proceed.

CASE DETAILS

COURT	United States District Court for the Western District of Kentucky, Paducah Division
WRITING FOR THE COURT	Joseph H. McKinley Jr.
JURISDICTION	United States District Court for the Western District of Kentucky, Paducah Division
DECIDED	May 22, 2026
DOCKET	5:26-CV-00014-JHM
DISPOSITION	other
PROCEDURAL POSTURE	Screening of a pro se incarcerated plaintiff’s civil-rights complaint under 28 U.S.C. § 1915A.
STANDARD OF REVIEW	Under 28 U.S.C. § 1915A, the court must dismiss a prisoner’s complaint or any portion of it that is frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from an immune defendant. For failure to state a claim, the complaint must contain sufficient factual matter to state a plausible claim; well-pleaded factual allegations are accepted as true and viewed in the light most favorable to the plaintiff, but bare legal conclusions are not accepted.
PRECEDENTIAL VALUE	Unpublished district-court memorandum opinion; precedential status not stated.

PARTIES

Karim Zein v. Lt. Delvin F. Nielsen, Laura Plappert, William Duvall

TOPICS

section 1983

prisoners rights

police misconduct

civil rights

cruel and unusual punishment

PRACTICE AREAS

civil rights

prisoner litigation

constitutional torts

QUESTIONS PRESENTED

1. Whether the complaint stated claims under § 1983 sufficient to proceed past screening under 28 U.S.C. § 1915A.
2. Whether the official-capacity claims for damages were cognizable under § 1983.
3. Whether the allegations stated Eighth Amendment excessive-force and failure-to-protect claims.
4. Whether alleged verbal threats and brandishing of a taser stated an Eighth Amendment claim.
5. Whether the allegations stated a Fourteenth Amendment equal-protection claim.
6. Whether the allegations stated Fourth Amendment unreasonable-search claims based on a strip search.
7. Whether the allegations stated an individual-capacity supervisory-liability claim against the warden.

HOLDINGS

1. State officials sued in their official capacities for damages are not persons subject to suit under § 1983; Zein's official-capacity claims therefore fail to state a claim.
2. The allegations that Nielsen and Duvall used excessive force, and that Duvall failed to protect Zein from Nielsen's excessive force, were sufficient to allow those individual-capacity claims to proceed past screening.
3. Duvall's alleged verbal threats to use a taser, even accompanied by brandishing the taser, did not rise to the level of a constitutional violation and were dismissed for failure to state a claim.
4. A conclusory assertion that the defendants' conduct denied Zein equal protection, without allegations of disparate treatment compared with similarly situated persons, failed to state an equal-protection claim.
5. The allegations that Duvall and Nielsen conducted or ordered a strip search were sufficient to allow an individual-capacity Fourth Amendment unreasonable-search claim to proceed past screening.
6. A § 1983 supervisor cannot be held liable under respondeat superior or based merely on a failure to act; because the allegations against Plappert rested on her supervisory role and failure to respond to grievances and reports, the individual-capacity claim failed.

KEY QUOTATIONS

"Section 1983 creates no substantive rights, but merely provides remedies for deprivations of rights established elsewhere." (III)

“Supervisory liability “must be based on active unconstitutional behavior and cannot be based upon ‘a mere failure to act.’” (III.B.4)

“The Court will allow the following claims to proceed against Defendants in their individual capacity: Eighth Amendment excessive force claim against Defendants Duvall and Nielsen; Eighth Amendment failure-to-protect claim against Defendant Duvall; Fourth Amendment strip-search claim against Defendants Duvall and Nielsen.” (Order ¶ 2)

FACTUAL BACKGROUND

Zein is incarcerated at Kentucky State Penitentiary and alleged that Lieutenant Nielsen and Officer Duvall used excessive force while transporting him to strip-out cages. He alleged that Duvall failed to protect him from Nielsen and threatened him with a taser, and that Duvall and Nielsen conducted or ordered a strip search. He also sued Warden Plappert based on her supervisory position and response to reports of the alleged misconduct.

PROCEDURAL HISTORY

Karim Zein filed a 42 U.S.C. § 1983 action against three Kentucky State Penitentiary officials in their official and individual capacities, seeking damages. On screening, the court dismissed the official-capacity claims, equal-protection claim, supervisory-liability claim against Warden Plappert, and verbal-threat claim, while allowing specified excessive-force, failure-to-protect, and strip-search claims to proceed.

DISPOSITION

other

CASES CITED

- *McGore v. Wrigglesworth*, 114 F.3d 601, 604 (6th Cir. 1997)
- *Jones v. Bock*, 549 U.S. 199 (2007)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 676, 678 (2009)
- *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 570 (2007)
- *Tackett v. M & G Polymers, USA, LLC*, 561 F.3d 478, 488 (6th Cir. 2009)
- *Gunasekera v. Irwin*, 551 F.3d 461, 466 (6th Cir. 2009)
- *Columbia Natural Res., Inc. v. Tatum*, 58 F.3d 1101, 1109 (6th Cir. 1995)
- *Haines v. Kerner*, 404 U.S. 519, 520–21 (1972)
- *Jourdan v. Jabe*, 951 F.2d 108, 110 (6th Cir. 1991)
- *McDonald v. Hall*, 610 F.2d 16, 19 (1st Cir. 1979)
- *Flint ex rel. Flint v. Ky. Dep't of Corr.*, 270 F.3d 340, 351 (6th Cir. 2001)
- *West v. Atkins*, 487 U.S. 42, 48 (1988)
- *Christy v. Randlett*, 932 F.2d 502, 504 (6th Cir. 1991)
- *Will v. Mich. Dep't of State Police*, 491 U.S. 58, 71 (1989)
- *Witten v. Schafer*, No. 5:23CV-P34-JHM, 2023 WL 5193772, at *1–2 (W.D. Ky. Aug. 11, 2023)

- Thornton v. Sevier Cnty. Jail, No. 3:23-CV-191-CLC-JEM, 2023 WL 4707133, at *7 (E.D. Tenn. July 24, 2023)
- Ivey v. Wilson, 832 F.2d 950, 955 (6th Cir. 1987)
- City of Cleburne v. Cleburne Living Ctr., 473 U.S. 432, 439 (1985)
- Center for Bio-Ethical Reform, Inc. v. Napolitano, 648 F.3d 365, 379 (6th Cir. 2011)
- Brown v. Slaubaugh, No. 3:18-CV-P762-RGJ, 2021 WL 3754553, at *2 (W.D. Ky. Aug. 24, 2021)
- Monell v. New York City Dep't of Soc. Servs., 436 U.S. 658, 691 (1978)
- Taylor v. Mich. Dep't of Corr., 69 F.3d 76, 80–81 (6th Cir. 1995)
- Bellamy v. Bradley, 729 F.2d 416, 421 (6th Cir. 1984)
- Shehee v. Luttrell, 199 F.3d 295, 300 (6th Cir. 1999)
- Salehpour v. Univ. of Tenn., 159 F.3d 199, 206 (6th Cir. 1998)

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