

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

Micheal Salmon v. Crycella Freitag

Salmon v. Freitag · No. 25-3243-JWL · Decided November 25, 2025

SUMMARY

The United States District Court for the District of Kansas denied Micheal Salmon’s motion to amend his petition for a writ of mandamus into a different type of action. The court dismissed the mandamus action with prejudice for failure to state a claim, concluding that Salmon had not shown good cause why the matter should remain pending and that the requested criminal investigation, prosecution, and direction of state courts were unavailable relief. The court denied his motion to proceed in forma pauperis as moot and directed the clerk to provide forms for a potential new 42 U.S.C. § 1983 action.

CASE DETAILS

COURT	United States District Court for the District of Kansas
WRITING FOR THE COURT	John W. Lungstrum
JURISDICTION	United States District Court for the District of Kansas
DECIDED	November 25, 2025
DOCKET	25-3243-JWL
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner filed a petition for a writ of mandamus against a private respondent and later moved to amend the petition into a different type of action seeking criminal investigation, prosecution, and reversal of state-court orders. The district court denied leave to amend and dismissed the mandamus action with prejudice for failure to state a claim.
STANDARD OF REVIEW	The court evaluated whether the proposed amended pleading would state a claim on which relief could be granted and whether allowing conversion of the mandamus action into a different type of case would serve the interests of justice.
PRECEDENTIAL VALUE	unpublished
PARTIES	Micheal Salmon v. Crycella Freitag

TOPICS

motion to amend

pleadings

injunctions

section 1983

civil procedure

PRACTICE AREAS

civil procedure

civil rights

mandamus

injunctive relief

QUESTIONS PRESENTED

1. Whether the court should permit Salmon to convert his mandamus action into a different type of civil action through a motion for leave to amend.
2. Whether Salmon's proposed claims seeking a criminal investigation, criminal prosecution, incarceration of the respondent, and relief directed at state courts stated a claim on which relief could be granted.
3. Whether the mandamus action should be dismissed with prejudice after Salmon stated that he no longer sought mandamus relief.

HOLDINGS

1. The court denied leave to amend because the proposed amendment sought to convert the mandamus action into a different type of case and did not clearly identify the claims Salmon intended to assert.
2. Allegations seeking an order compelling a criminal investigation or prosecution generally do not state a claim on which federal relief may be granted.
3. The mandamus action was dismissed with prejudice for failure to state a claim on which relief could be granted.

KEY QUOTATIONS

“To be clear, if Petitioner wishes to file a complaint in this Court and assert claims for relief that are not brought in the context of a petition for writ of mandamus, he must do so under a different case number.”

(opinion text)

“This mandamus action is therefore dismissed with prejudice because it fails to state a claim on which relief can be granted.” (opinion text)

FACTUAL BACKGROUND

Salmon, a Kansas state prisoner proceeding pro se, sought a writ of mandamus and later stated that he instead wanted criminal charges and an investigation against Freitag. He also sought reversal of orders issued by Stone County and the State of Kansas, along with Freitag's immediate incarceration and investigation. His motion to amend did not clearly identify the claims or legal rights allegedly violated.

PROCEDURAL HISTORY

Salmon filed a federal petition for a writ of mandamus but did not pay the filing fee or submit a proper in forma pauperis application. The court issued a notice and order to show cause explaining that it could not issue mandamus relief to state courts. Before the response deadline, Salmon moved to proceed in forma pauperis and moved for leave to amend, stating that he no longer sought mandamus relief. The court construed the

amendment motion as a response to the show-cause order, found no good cause to continue the matter, denied amendment, and dismissed the case with prejudice.

DISPOSITION

dismissed

CASES CITED

- Nasious v. Two Unknown B.I.C.E. Agents, at Arapahoe County Justice Center, 492 F.3d 1158, 1163 (10th Cir. 2007)
- Salmon v. Braun, Case No. 25-3148-JWL, 2025 WL 2402259, at *3 (D. Kan. Aug. 19, 2025)
- Presley v. Presley, 102 Fed. Appx. 636, 636 (10th Cir. 2004)

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