

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

Vincent Boyd v. K. Hamon, et al.

Case No. 2:25-cv-02382-NJK (D. Nev. Dec. 4, 2025) · No. 2:25-cv-02382-NJK · Decided December 4, 2025

OPINION

Boyd

PER CURIAM.

1 2 3

UNITED STATES DISTRICT COURT

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DISTRICT OF NEVADA

5 6 VINCENT BOYD, Case No. 2:25-cv-02382-NJK 7 Plaintiff, ORDER 8 v. [Docket No. 1] 9 K.
HAMON, et al., 10 Defendants. 11 Plaintiff is proceeding in this action pro se and has requested
authority pursuant to 12 28 U.S.C. § 1915 to proceed in forma pauperis.1 13 I. In Forma Pauperis
Application 14 Plaintiff filed an affidavit required by § 1915(a). Docket No. 1. Plaintiff has shown
an 15 inability to prepay fees and costs or give security for them. Accordingly, the request to
proceed 16 in forma pauperis will be granted pursuant to 28 U.S.C. § 1915(a). The Clerk's Office
is further 17 INSTRUCTED to file the complaint (Docket No. 1-1) on the docket. 18 II. Screening
the Complaint 19 Upon granting an application to proceed in forma pauperis, courts additionally
screen the 20 complaint pursuant to § 1915(e). Federal courts are given the authority to dismiss a
case if the 21 action is legally "frivolous or malicious," fails to state a claim upon which relief
may be granted, 22 or seeks monetary relief from a defendant who is immune from such relief. 28
U.S.C. § 1915(e)(2). 23 When a court dismisses a complaint under § 1915, the plaintiff should be
given leave to amend the 24 complaint with directions as to curing its deficiencies, unless it is
clear from the face of the 25 complaint that the deficiencies could not be cured by amendment.
See *Cato v. United States*, 70 26 F.3d 1103, 1106 (9th Cir. 1995). 27 1 The Court liberally
construes the filings of pro se litigants. *Erickson v. Pardus*, 551 U.S. 28 89, 94 (2007).

1 Rule 12(b)(6) of the Federal Rules of Civil Procedure provides for dismissal of a complaint
2 for failure to state a claim upon which relief can be granted. Review under Rule 12(b)(6) is 3
essentially a ruling on a question of law. See *Chappel v. Lab. Corp. of Am.*, 232 F.3d 719, 723 4
(9th Cir. 2000). A properly pled complaint must provide a short and plain statement of the claim 5
showing that the pleader is entitled to relief. Fed. R. Civ. P. 8(a)(2); *Bell Atlantic Corp. v. 6*
Twombly, 550 U.S. 544, 555 (2007). Although Rule 8 does not require detailed factual allegations,
7 it demands "more than labels and conclusions" or a "formulaic recitation of the elements of a
cause 8 of action." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Papasan v. Allain*, 478 U.S.
265, 9 286 (1986)). The court must accept as true all well-pled factual allegations contained in the

10 complaint, but the same requirement does not apply to legal conclusions. *Iqbal*, 556 U.S. at 679. 11 Mere recitals of the elements of a cause of action, supported only by conclusory allegations, do 12 not suffice. *Id.* at 678. Secondly, where the claims in the complaint have not crossed the line from 13 conceivable to plausible, the complaint should be dismissed. *Twombly*, 550 U.S. at 570. 14 Allegations of a pro se complaint are held to less stringent standards than formal pleadings drafted 15 by lawyers. *Hebbe v. Pliler*, 627 F.3d 338, 342 & n.7 (9th Cir. 2010) (finding that liberal 16 construction of pro se pleadings is required after *Twombly* and *Iqbal*). 17 Plaintiff's complaint asserts a claim pursuant to *Sherar v. Cullen*, 481 F.2d 945 (9th Cir. 18 1973) as "the law or right violated" for which he seeks relief. See Docket No. 1-1 at 5. Construing 19 Plaintiff's complaint liberally, Plaintiff cites to *Sherar* for the proposition "that there be no sanction 20 or penalty imposed upon one because of his exercise of constitutional rights." *Sherar v. Cullen*, 21 481 F.2d 945, 947 (9th Cir. 1973). Plaintiff submits that "[t]here was no crime committed yet [he] 22 was still incarcerated for the thought of having a firearm." Docket No. 1-1 at 5. However, Plaintiff 23 fails to state what claim he alleges and which law or right he alleges is violated. *Id.* Therefore, 24 Plaintiff fails to state a claim upon which relief can be granted. 25 III. Conclusion 26 Accordingly, IT IS ORDERED that: 27 1. Plaintiff's request to proceed in forma pauperis (Docket No. 1) is GRANTED. 28 Plaintiff is not required to pay the filing fee. Plaintiff is permitted to maintain this] action to conclusion without the necessity of prepayment of any additional fees or costs 2 or the giving of a security therefor. This order granting leave to proceed in forma 3 pauperis shall not extend to the issuance and/or service of subpoenas at government 4 expense. 5 2. The Clerk's Office is INSTRUCTED to file Plaintiff's complaint (Docket No. 1-1) on 6 the docket. 7 3. Plaintiff's complaint is DISMISSED with leave to amend. Plaintiff will have until

8 December 18, 2025, to file an amended complaint. Plaintiff is informed that the Court 9 cannot refer to a prior pleading (i.e., the original complaint) in order to make the 10 amended complaint complete. This is because, as a general rule, an amended complaint 11 supersedes the original complaint. Local Rule 15-1(a) requires that an amended 12 complaint be complete in itself without reference to any prior pleading. Once a plaintiff 13 files an amended complaint, the original complaint no longer serves any function in the 14 case. Therefore, in an amended complaint, as in an original complaint, each claim and 15 the involvement of each Defendant must be sufficiently alleged. 16 4. Failure to file an amended complaint by the deadline set above will result in the 17 recommended dismissal of this case. 18 IT IS SO ORDERED. 19 Dated: December 4, 2025 a A. Nancy J. Koppe* 21 United States Magistrate Judge 23 24 25 26 27 28