

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
WASHINGTON

**Matthew T. Ferguson v. United States Department of Veterans
Affairs**

No. 2:25-CV-00455-RLP (E.D. Wash. Dec. 4, 2025) · No. 2:25-CV-00455-RLP · Decided December 4, 2025

OPINION

Ferguson

PER CURIAM.

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FILED IN THE

U.S. DISTRICT COURT

2 EASTERN DISTRICT OF WASHINGTON

Dec 04, 2025 3

SEAN F. MCAVOY, CLERK

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5 UNITED STATES DISTRICT COURT

6 EASTERN DISTRICT OF WASHINGTON

7 MATTHEW T FERGUSON, No. 2:25-CV-00455-RLP

8 Plaintiff, ORDER DISMISSING CASE 9 v.

10 UNITED STATES DEPARTMENT OF

VETERANS AFFAIRS,

11 Defendants. 12

Before the Court is Plaintiff Matthew Ferguson’s Amended Complaint, ECF 13 No. 8, and Motion for Reconsideration of Order Denying Preliminary Injunction 14 as Moot, ECF No. 9. Mr. Ferguson appears pro se. By separate Order the Court 15 granted Mr. Ferguson leave to proceed in forma pauperis. ECF No. 5. Defendants 16 have not been served. 17

LEGAL STANDARD

18 A plaintiff proceeding in forma pauperis under 28 U.S.C. § 1915 is subject to sua 19 sponte review of his or her complaint, and mandatory dismissal, if the complaint 20 1 is “frivolous, malicious, fail[s] to state claim upon which relief may be granted, or 2 seek[s] monetary relief from a defendant immune from such relief.” See 28 U.S.C. 3 § 1915(e)(2)(B); Coleman v. Tollefson, 575 U.S. 532, 537-38 , 135 S.Ct. 1759 4 (2015); Lopez v. Smith, 203 F.3d 1122, 1127 (9th Cir. 2000) (en banc) (“[S]ection 5 1915(e) not only permits, but requires a district court to dismiss an in forma pauperis 6 complaint that fails to state a claim.”) 7 A claim is legally frivolous when it lacks an arguable basis either in law or in 8 fact. Neitzke v. Williams, 490 U.S. 319, 325,

109 S.Ct. 1827 (1989), superseded by 9 statute on other grounds as stated in *Lopez v. Smith*, 203 F.3d 1122, 1126–27 (9th

10 Cir. 2000) (en banc); *Franklin v. Murphy*, 745 F.2d 1221, 1227-28 (9th Cir. 1984).

11 The Court may, therefore, dismiss a claim as frivolous where it is based on an 12 indisputably meritless legal theory or where the factual contentions are clearly 13 baseless. *Neitzke*, 490 U.S. at 327, 109 S.Ct. 1827. The critical inquiry is whether a 14 claim, however inartfully pleaded, has an arguable legal and factual basis. See 15 *Jackson v. Arizona*, 885 F.2d 639, 640 (9th Cir. 1989), superseded by statute on 16 other grounds as stated in *Lopez*, 203 F.3d at 1130-31; *Franklin*, 745 F.2d at 1227. 17 The facts alleged in a complaint are to be taken as true and must “plausibly 18 give rise to an entitlement to relief.” *Ashcroft v. Iqbal*, 556 U.S. 662, 664, 129 19 S.Ct. 1937 (2009). Mere legal conclusions “are not entitled to the assumption of 20 truth.” *Id.* The complaint must contain more than “a formulaic recitation of the 1 elements of a cause of action.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 127 2 S.Ct. 1955 (2007). It must plead “enough facts to state a claim to relief that is 3 plausible on its face.” *Id.* at 570, 127 S.Ct. 1955.

4 DISCUSSION

5 Mr. Ferguson’s suit appears to stem from medical treatment he was denied at 6 the Spokane Veterans Affairs Medical Center (VAMC). See generally ECF No. 8. 7 Mr. Ferguson names the United States Department of Veterans Affairs, the 8 Secretary of Veterans Affairs Doug Collins, and the Director of the Spokane 9 VAMC Robert J. Fischer. *Id.* at 2. The latter two individuals are sued in their 10 official capacity. *Id.* 11 FRCP 8(a)(1) requires a plaintiff to include a short and plain statement of the 12 grounds for the Court’s jurisdiction in his complaint. The United States and its 13 agencies are immune from suit unless the United States has expressly waived its 14 immunity. *Balser v. Dep’t of Just., Off. of U.S. Tr.*, 327 F.3d 903, 907 (9th Cir. 15 2003). The Court lacks subject matter jurisdiction to hear claims against the United 16 States and its agencies absent such a waiver. *Id.* “An action against an officer, 17 operating in his or her official capacity as a United States agent, operates as a 18 claim against the United States.” *Solida v. McKelvey*, 820 F.3d 1090, 1095 (9th 19 Cir. 2016).

20 1 The Court’s prior Order to Amend or Voluntarily Dismiss Complaint 2 indicated that Mr. Ferguson’s original Complaint¹ failed to state a claim because 3 he failed to allege that the United States had waived its sovereign immunity to 4 suit. ECF No. 6. Nevertheless, Mr. Ferguson’s Amended Complaint again fails to 5 allege that the United States has waived its sovereign immunity. For the same 6 reasons articulated in the Court’s prior order, Mr. Ferguson’s Amended Complaint 7 likewise fails to state a claim for relief. 8 As Mr. Ferguson’s original Complaint failed to state a claim upon which 9 relief could be granted, he was not entitled to a preliminary injunction. See 10 *California v. Azar*, 911 F.3d 558, 575 (9th Cir. 2018) (preliminary injunctions 11 require a clear showing that plaintiff is entitled to such relief). Mr. Ferguson’s 12 motion for reconsideration does not dispute this, and it is therefore denied. 13 14 15 1 Mr. Ferguson also

moves for reconsideration of the Court's order, alleging 16 the docket does not include his original Complaint. ECF No. 9. Mr. Ferguson 17 attached a copy of his original Complaint to his motion. ECF No. 9 at 9-14. Review 18 of this attached copy confirms that Mr. Ferguson's original Complaint was docketed, 19 and the Court's prior Order to Amend or Voluntarily Dismiss was based on review 20 of this Complaint. 1 Unless it is absolutely clear that amendment would be futile, a pro se litigant 2 must be given the opportunity to amend his complaint to correct any deficiencies. 3 See *Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1041 (9th Cir. 4 2011). Mr. Ferguson's Amended Complaint contains the same deficiencies as his 5 original Complaint, despite the Court's previous order to amend. The Court 6 therefore concludes that the United States has not waived its sovereign immunity 7 to Mr. Ferguson's claims, and that providing Mr. Ferguson a third attempt to state 8 a claim would be futile. For that reason, the Court dismisses Mr. Ferguson's suit 9 for failure to state a claim upon which relief may be granted. 10 ACCORDINGLY, IT IS ORDERED: 11 1. Plaintiff Matthew Ferguson's Amended Complaint, ECF No. 8, is 12 DISMISSED without prejudice for failure to state a claim upon which relief may 13 be granted under 28 U.S.C. § 1915(e)(2). 14 2. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any 15 appeal of this Order would not be taken in good faith and would lack any arguable 16 basis in law or fact. 17 3. Mr. Ferguson's outstanding Motion for Reconsideration of Order 18 Denying Preliminary Injunction is DENIED. 19 // 20] IT IS SO ORDERED. The Clerk of Court is directed to enter this Order, 2|| enter judgment, provide copies to Plaintiff and counsel, and CLOSE the file. 3 DATED December 4, 2025.

5 ☐ REBECCAL.PENNELL

UNITED STATES DISTRICT JUDGE

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ORDER NICAATICPING CAQCBR