

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

**Christopher Tahchawwickah v. Angie Davis, et al.**

Tahchawwickah · No. 26-3103-JWL · Decided April 29, 2026

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OPINION

Tahchawwickah

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF KANSAS

CHRISTOPHER TAHCHAWWICKAH,

Plaintiffs,

v. CASE NO. 26-3103-JWL

ANGIE DAVIS, et al., Defendants.

MEMORANDUM AND ORDER TO SHOW CAUSE

Plaintiff Christopher Tahchawwickah is hereby required to show good cause why this action should not be dismissed due to the deficiencies in Plaintiff's Complaint that are discussed herein.

I. Nature of the Matter before the Court Plaintiff brings this pro se civil rights case under 42 U.S.C. § 1983. Plaintiff is currently in custody at the Jess Dunn Correctional Center in Taft, Oklahoma. The Court granted Plaintiff leave to proceed in forma pauperis. Plaintiff alleges that Nurse Angie Davis denied Plaintiff mental health medication "several times" while he was housed at the Seward County Jail in Liberal, Kansas ("SCJ"). (Doc. 1, at 1– 2, 5.) Plaintiff claims that he was denied medication twice before writing a medical grievance against Defendant. *Id.* at 2. Plaintiff claims negligence, medical malpractice, and an Eighth Amendment violation. *Id.* at 5–6. Plaintiff states that he filed a motion attempting to join Case No. 24-3095, and is now filing a pro se suit against the Defendants. *Id.* at 3. Plaintiff names as defendants Angie Davis, SCJ Nurse, and (fnu)(lnu) Unnamed Employer of Angie Davis. Plaintiff seeks \$5,000,000 in damages. *Id.* at 4, 9.

II. Statutory Screening of Prisoner Complaints The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or an officer or an employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff has raised claims that are legally frivolous or malicious, that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1)–(2).

"To state a claim under § 1983, a plaintiff must allege the violation of a right secured by the Constitution and laws of the United States, and must show that the alleged deprivation was committed by a person acting under color of state law." *West v. Atkins*, 487 U.S. 42, 48 (1988)

(citations omitted); *Northington v. Jackson*, 973 F.2d 1518, 1523 (10th Cir. 1992). A court liberally construes a pro se complaint and applies “less stringent standards than formal pleadings drafted by lawyers.” *Erickson v. Pardus*, 551 U.S. 89, 94 (2007). In addition, the court accepts all well-pleaded allegations in the complaint as true. *Anderson v. Blake*, 469 F.3d 910, 913 (10th Cir. 2006). On the other hand, “when the allegations in a complaint, however true, could not raise a claim of entitlement to relief,” dismissal is appropriate. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 558 (2007). A pro se litigant’s “conclusory allegations without supporting factual averments are insufficient to state a claim upon which relief can be based.” *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). “[A] plaintiff’s obligation to provide the ‘grounds’ of his ‘entitlement to relief’ requires “more than labels and conclusions, and a formulaic recitation of the elements of a cause of action.” *Twombly*, 550 U.S. at 555 (citations omitted). The complaint’s “factual allegations must be enough to raise a right to relief above the speculative level” and “to state a claim to relief that is plausible on its face.” *Id.* at 555, 570. The Tenth Circuit Court of Appeals has explained “that, to state a claim in federal court, a complaint must explain what each defendant did to [the pro se plaintiff]; when the defendant did it; how the defendant’s action harmed [the plaintiff]; and, what specific legal right the plaintiff believes the defendant violated.” *Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1163 (10th Cir. 2007). The court “will not supply additional factual allegations to round out a plaintiff’s complaint or construct a legal theory on a plaintiff’s behalf.” *Whitney v. New Mexico*, 113 F.3d 1170, 1173-74 (10th Cir. 1997) (citation omitted). The Tenth Circuit has pointed out that the Supreme Court’s decisions in *Twombly* and *Erickson* gave rise to a new standard of review for § 1915(e)(2)(B)(ii) dismissals. See *Kay v. Bemis*, 500 F.3d 1214, 1218 (10th Cir. 2007) (citations omitted); see also *Smith v. United States*, 561 F.3d 1090, 1098 (10th Cir. 2009). As a result, courts “look to the specific allegations in the complaint to determine whether they plausibly support a legal claim for relief.” *Kay*, 500 F.3d at 1218 (citation omitted). Under this new standard, “a plaintiff must ‘nudge his claims across the line from conceivable to plausible.’” *Smith*, 561 F.3d at 1098 (citation omitted). “Plausible” in this context does not mean “likely to be true,” but rather refers “to the scope of the allegations in a complaint: if they are so general that they encompass a wide swath of conduct, much of it innocent,” then the plaintiff has not “nudged [his] claims across the line from conceivable to plausible.” *Robbins v. Oklahoma*, 519 F.3d 1242, 1247 (10th Cir. 2008) (citing *Twombly*, 127 S. Ct. at 1974).

### III. DISCUSSION

Plaintiff states in his Complaint that he attempted to join his claims in Case No. 24-3095. In his motion to join that case, Plaintiff states that Angie Davis denied him mental health medications at the Seward County Jail in 2023. See *Scott v. Ward*, Case No. 24-3095-JWB-GEB, Doc. 14 (D. Kan. Aug. 26, 2024). Plaintiff’s motion to join was denied on September 5, 2024. *Id.* at Doc. 15. The statute of limitations applicable to § 1983 actions is determined from looking at the appropriate state statute of limitations and tolling principles. See *Hardin v. Straub*, 490 U.S. 536,

539 (1989). “The forum state’s statute of limitations for personal injury actions governs civil rights claims under both 42 U.S.C. § 1981 and § 1983. . . . In Kansas, that is the two-year statute of limitations in Kan. Stat. Ann. § 60–513(a).” *Brown v. Unified Sch. Dist. 501, Topeka Pub. Sch.*, 465 F.3d 1184, 1188 (10th Cir. 2006) (citations omitted). While state law governs the length of the limitations period and tolling issues, “the accrual date of a § 1983 cause of action is a question of federal law.” *Wallace v. Kato*, 549 U.S. 384, 388

(2007). Under federal law, the claim accrues “when the plaintiff has a complete and present cause of action.” *Id.* (internal quotation marks and citation omitted). In other words, “[a] § 1983 action accrues when facts that would support a cause of action are or should be apparent.” *Fogle v. Pierson*, 435 F.3d 1252, 1258 (10th Cir. 2006) (internal quotation marks and citation omitted), cert. denied 549 U.S. 1059 (2006). A district court may dismiss a complaint filed by an indigent plaintiff if it is patently clear from the allegations as tendered that the action is barred by the statute of limitations. *Id.* at 1258–59; see also *Jones v. Bock*, 549 U.S. 199, 214 (2007); *Hawkins v. Lemons*, No. 09-3116-SAC, 2009 WL 2475130, at \*2 (D. Kan. Aug. 12, 2009). It plainly appears from the face of the Complaint that Plaintiff’s claims are subject to dismissal as barred by the applicable two-year statute of limitations. Plaintiff filed his Complaint on April 28, 2026. Plaintiff’s alleged violations occurred in 2023. It thus appears that any events or acts of Defendants taken in connection with Plaintiff’s claims took place more than two years prior to the filing of Plaintiff’s Complaint and are time-barred. See *Fratus v. Deland*, 49 F.3d 673, 674-75 (10th Cir. 1995) (district court may consider affirmative defenses sua sponte when the defense is obvious from the face of the complaint and no further factual record is required to be developed). Plaintiff has not alleged facts suggesting that he would be entitled to statutory or equitable tolling. Plaintiff should show good cause why his claims should not be dismissed as barred by the statute of limitations. IV. Response Required Plaintiff is required to show good cause why his Complaint should not be dismissed as barred by the applicable statute of limitations. Failure to respond by the deadline may result in dismissal of this matter without further notice. IT IS THEREFORE ORDERED that Plaintiff is granted until May 29, 2026, in which to show good cause, the in writing to the Honorable John W. Lungstrum, United States District Judge, why Plaintiff’s Complaint should not be dismissed for the reasons stated herein. IT IS SO ORDERED. Dated April 29, 2026, in Kansas City, Kansas. S/ James P. O’Hara

JAMES P. O’HARA

UNITED STATES MAGISTRATE JUDGE