

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Perkins v. Holmes

Perkins v. Holmes · No. 1:23-cv-01607-JLT-EPG (PC) · Decided June 12, 2025

SUMMARY

The document contains findings and recommendations in a prisoner civil-rights action under 42 U.S.C. § 1983. It recommends denying defendants’ motion to partially dismiss Gary Ronnell Perkins’s Eighth Amendment deliberate-indifference claim concerning the denial of orthotic footwear and referral to podiatry. The court concludes that the complaint sufficiently alleges a serious medical need and deliberate indifference, and that the defendants’ grievance materials should not be used at the pleading stage to resolve factual disputes about the care provided.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Erica P. Grosjean
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	June 12, 2025
DOCKET	1:23-cv-01607-JLT-EPG (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Findings and recommendations on moving defendants' Federal Rule of Civil Procedure 12(b)(6) motion to partially dismiss a prisoner's 42 U.S.C. § 1983 complaint alleging deliberate indifference to serious medical needs in violation of the Eighth Amendment.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true, draws reasonable inferences in the plaintiff's favor, and determines whether the complaint states a plausible claim for relief. Conclusory allegations are not accepted as true, and pro se pleadings are construed under less stringent standards. At the pleading stage, materials outside the complaint generally may not be considered unless incorporated by reference or subject to judicial notice.
PRECEDENTIAL VALUE	nonprecedential

PARTIES

Gary Ronnell Perkins v. Judith Holmes, Wei Gu, J. Mevi, S. Gates, K.D. Johnson, A. Magana, J. Sustaita, H. Longcor, H. Longia

TOPICS

prisoners rights

section 1983

motions to dismiss

cruel and unusual punishment

civil procedure

PRACTICE AREAS

civil rights

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QUESTIONS PRESENTED

1. Whether grievance records attached to defendants' motion could be considered under the incorporation-by-reference doctrine to establish that defendants provided constitutionally adequate medical care.
2. Whether the complaint plausibly alleged that Holmes and Gu were deliberately indifferent to Perkins's serious medical needs.
3. Whether the complaint plausibly alleged deliberate indifference against Gates and Mevi based on their review and denial of medical grievances.
4. Whether the complaint sufficiently alleged personal participation and deliberate indifference by the members of the Reasonable Accommodation Panel who denied Perkins's request for orthotic shoes.
5. Whether qualified immunity required dismissal at the pleading stage.

HOLDINGS

1. Although the court could consider grievances incorporated by reference for what they stated, it could not use the attached grievance materials as substantive evidence to contradict the complaint's allegations or establish the actual adequacy of medical care at the pleading stage.
2. The complaint plausibly alleged that Holmes and Gu were deliberately indifferent to Perkins's serious medical needs by refusing orthotics and podiatry referrals despite allegations of chronic and severe pain, prior prescriptions, and a continuing need for treatment.
3. The complaint plausibly alleged deliberate indifference by Gates and Mevi because it alleged that they reviewed grievances and medical records reflecting a serious medical need, prior orthotics prescriptions, continuing pain, and treatment denials based on policy.
4. The complaint sufficiently alleged personal participation by each RAP member because it alleged that each participated in the panel decision denying orthotic shoes despite medical documentation of Perkins's serious medical need.
5. Qualified immunity did not warrant dismissal at the pleading stage because the allegations, taken as true, plausibly showed violations of a clearly established Eighth Amendment right to medically necessary treatment.

KEY QUOTATIONS

“The incorporation-by-reference doctrine does not override the fundamental rule that courts must interpret the allegations and factual disputes in favor of the plaintiff at the pleading stage.” (at 16)

“The Court thus recommends denying Moving Defendants’ motion to the extent it argues that Plaintiff’s complaint fails to adequately allege deliberate indifference to serious medical needs against Defendants Holmes and Gu.” (at 18)

“The Ninth Circuit has held that a denial of a medically necessary treatment solely on the basis of institutional policy constitutes deliberate indifference to serious medical needs.” (at 19)

“Here, in contrast, Plaintiff has alleged that the RAP had medical records indicating that medical professionals had previously found that he required orthotics, that he has a continuing medical need, and that his treating doctors denied his request based solely on a change in prison policy.” (at 24)

FACTUAL BACKGROUND

Perkins alleged that he was diagnosed with bilateral bunions in 2006, prescribed orthotic shoes, and continued using orthotics for years. He alleged that prison medical providers and grievance reviewers denied replacement orthotics and podiatry referrals despite his repeated complaints of severe pain, prior medical documentation, and observations of a bunion, redness, inflammation, and abnormal toe positioning. According to the complaint, the denials were based primarily on a 2020 institutional policy change that narrowed eligibility for orthotic footwear rather than on individualized medical assessments.

PROCEDURAL HISTORY

Perkins, a prisoner proceeding pro se, filed a § 1983 complaint concerning the denial of orthotic footwear and podiatry referrals. The court screened the complaint and permitted the Eighth Amendment deliberate-indifference claim to proceed against the individual defendants. Several defendants then moved to partially dismiss under Rule 12(b)(6), relying in substantial part on grievance materials attached to the motion. The magistrate judge recommends denying the motion in its entirety and provides thirty days for objections.

DISPOSITION

other

CASES CITED

- Navarro v. Block, 250 F.3d 729, 732 (9th Cir. 2001)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007)
- Erickson v. Pardus, 551 U.S. 89, 93-94 (2007)
- In re Tracht Gut, LLC, 836 F.3d 1146, 1150 (9th Cir. 2016)
- Hebbe v. Pliler, 627 F.3d 338, 342 (9th Cir. 2010)
- Whittaker Corp. v. United States, 825 F.3d 1002, 1006 (9th Cir. 2016)
- Jett v. Penner, 439 F.3d 1091, 1096 (9th Cir. 2006)

- Colwell v. Bannister, 763 F.3d 1060, 1063, 1066, 1068, 1070 (9th Cir. 2014)
- Wilhelm v. Rotman, 680 F.3d 1113, 1122 (9th Cir. 2012)
- Peralta v. Dillard, 744 F.3d 1076, 1081, 1086-88 (9th Cir. 2014)
- Farmer v. Brennan, 511 U.S. 825, 837 (1994)
- Toguchi v. Chung, 391 F.3d 1051, 1057 (9th Cir. 2004)
- Edmo v. Corizon, Inc., 935 F.3d 757, 786 (9th Cir. 2019)
- Pearson v. Callahan, 555 U.S. 223, 231 (2009)
- Robinson v. York, 566 F.3d 817, 821 (9th Cir. 2009)
- Horton by Horton v. City of Santa Maria, 915 F.3d 592, 599 (9th Cir. 2019)
- Evans v. Skolnik, 997 F.3d 1060, 1066 (9th Cir. 2021)
- Kisela v. Hughes, 584 U.S. 100, 104 (2018)
- Martinez v. City of Clovis, 943 F.3d 1260, 1275 (9th Cir. 2019)
- Russell v. Lumitap, 31 F.4th 729, 737-38 (9th Cir. 2022)
- Keates v. Koile, 883 F.3d 1228, 1235 (9th Cir. 2018)
- Intri-Plex Techs., Inc. v. Crest Group, Inc., 499 F.3d 1048, 1052 (9th Cir. 2007)
- Khoja v. Orexigen Therapeutics, Inc., 899 F.3d 988, 998, 1003, 1014 (9th Cir. 2018)
- United States v. Ritchie, 342 F.3d 903, 908 (9th Cir. 2003)
- Coto Settlement v. Eisenberg, 593 F.3d 1031, 1038 (9th Cir. 2010)
- Orellana v. Mayorkas, 6 F.4th 1034, 1043 (9th Cir. 2021)
- Davis v. HSBC Bank Nevada, N.A., 691 F.3d 1152, 1159 (9th Cir. 2012)
- Guy v. Bick, No. 2:21CV00823WBSJDPPC, 2022 WL 1271374, at *2 (E.D. Cal. Apr. 28, 2022), report and recommendation adopted, 2022 WL 3358116 (E.D. Cal. Aug. 15, 2022)
- Jones v. Williams, 297 F.3d 930, 934 (9th Cir. 2002)
- Carbajal v. Food Servs., No. EDCV 20-1029-PA (AS), 2022 WL 18911624, at *6 (C.D. Cal. Dec. 14, 2022), report and recommendation adopted, 2023 WL 2307439 (C.D. Cal. Mar. 1, 2023)
- Leer v. Murphy, 844 F.2d 628, 633 (9th Cir. 1988)
- Fairchild-Littlefield v. Atinello, No. 1:19CV01579NONEGSAPC, 2021 WL 4951549, at *6 (E.D. Cal. Oct. 25, 2021), report and recommendation adopted in part, rejected in part sub nom. Fairchild-Littlefield v. Atinello, No. 1:19CV01579JLTGSAPC, 2022 WL 326348 (E.D. Cal. Feb. 3, 2022)
- Michaud v. Bannister, No. 2:08-CV-01371-MMD, 2012 WL 6720602, at *10 (D. Nev. Dec. 26, 2012)
- Snow v. McDaniel, 681 F.3d 978, 989 (9th Cir. 2012)
- Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)
- Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)

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