

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

Micheal Salmon v. Crycella Freitag, et al.

Salmon v. Freitag · No. 25-3268-JWL · Decided January 16, 2026

SUMMARY

The United States District Court for the District of Kansas dismissed Micheal Salmon’s pro se 42 U.S.C. § 1983 action against Crycella Freitag and Edward Freitag with prejudice. The court held that the amended complaint did not plausibly allege that either private defendant acted under color of state law and declined to permit further amendment.

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	January 16, 2026
DOCKET	25-3268-JWL
DISPOSITION	dismissed
PROCEDURAL POSTURE	Pro se plaintiff brought a 42 U.S.C. § 1983 action against two private defendants. After screening the initial complaint, the court ordered plaintiff to show cause why the action should not be dismissed. Plaintiff filed an amended complaint instead of a written response, and the court dismissed the action with prejudice for failure to state a claim.
STANDARD OF REVIEW	At the screening stage, the court liberally construed the pro se complaint, accepted well-pleaded factual allegations as true, and determined whether the amended complaint stated a plausible claim for relief.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- section 1983
- civil rights
- state action
- pleadings
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the amended complaint plausibly alleged that the private defendants acted under color of state law for purposes of 42 U.S.C. § 1983.
2. Whether dismissal with prejudice was appropriate after plaintiff had already been given an opportunity to cure the deficiencies identified in the initial complaint.

HOLDINGS

1. The amended complaint failed to plausibly allege state action because allegations that a private party furnished allegedly false information to police, without facts showing a shared unconstitutional goal, substantial cooperative action, or significant state participation, do not establish joint action under color of state law.
2. Dismissal with prejudice was appropriate because the amended complaint continued to fail to state a plausible claim and plaintiff had already been given an opportunity to cure the identified deficiency.

KEY QUOTATIONS

“furnishing information to law enforcement officers, without more, does not constitute joint action under color of state law.” (at 3)

“Because Plaintiff has already been given a chance to cure this deficiency and has not done so, the Court declines to afford Plaintiff an additional opportunity to amend.” (at 4)

FACTUAL BACKGROUND

Plaintiff alleged that Edward Freitag knowingly gave police a false or invalid court order indicating that plaintiff was legally barred from seeing his child. He alleged that law enforcement relied on the representation and used state authority to prevent contact, after which Crycella Freitag allegedly used the resulting events to obtain a protective order. The court held that these allegations did not plausibly show that either private defendant shared an unconstitutional goal with police or acted jointly with police as a team.

PROCEDURAL HISTORY

Plaintiff filed the action on December 11, 2025, while incarcerated, and was granted leave to proceed in forma pauperis. The court's initial screening identified multiple deficiencies, including failure to allege state action, a federal-rights violation, and personal participation, and issued a memorandum and order to show cause. Plaintiff amended his complaint, but the court concluded that the amended allegations still did not plausibly show that either defendant acted under color of state law and dismissed the case with prejudice without granting another opportunity to amend.

DISPOSITION

dismissed

CASES CITED

- Schaffer v. Salt Lake City Corp., 814 F.3d 1151, 1157-58 (10th Cir.)
- Gallagher v. Neil Young Freedom Concert, 49 F.3d 1442, 1453-54 (10th Cir.)
- Yanaki v. Iomed, Inc., 415 F.3d 1204, 1212 (10th Cir.)
- Benavidez v. Gunnell, 722 F.2d 615, 616, 618 (10th Cir.)
- Carey v. Continental Airlines, Inc., 823 F.2d 1402, 1404 (10th Cir.)
- Lee v. Town of Estes Park, Colorado, 820 F.2d 1112, 1115 (10th Cir.)

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