

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

September 4, 2026

Lyle W. Cayce
Clerk

No. 24-40691
Summary Calendar

JEWELL THOMAS,

Plaintiff—Appellant,

versus

MICHAEL UPSHAW; PHILLIP KENT LUCAS; DEANA BARNES;
BRIDGETTE JURRELLS; SHERALL JOHNSON; CHRISTINE
HYNDMAN; CHRISTOPHER CARTER; ELIZABETH TYSON; ALICIA
DOVEL; BRENT CAIN; BRYAN COLLIER; CAREY GREEN,

Defendants—Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:22-CV-421

Before STEWART, RICHMAN, and HIGGINSON *Circuit Judges*.

PER CURIAM: *

Jewell Thomas appeals the district court's dismissal of his 42 U.S.C. § 1983 civil rights action. Thomas contends that the district court erred in dismissing his claims that the defendants failed to accommodate his disability

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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in violation of the Americans with Disabilities Act (ADA) and the Rehabilitation Act (RA), that the defendants were deliberately indifferent to his serious medical needs, that the defendants failed to adopt an appropriate policy for patients with chronic pain required to participate in drug treatment programs, and that the defendants conspired to deprive him of his constitutional rights. He also argues that the district court erred in determining that the defendants were entitled to qualified immunity, in failing to construe his objection to the magistrate judge's (MJ) report and recommendation as a motion to amend, and in granting the defendants' motions to dismiss that were submitted before the filing of his operative complaint.

We review a district court's dismissal of a complaint for failure to state a claim de novo. *McLin v. Ard*, 866 F.3d 682, 688 (5th Cir. 2017). A complaint fails to state a claim on which relief may be granted when it does not "contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal quotation marks and citation omitted).

Despite Thomas's assertions to the contrary, the district court did not err in dismissing his claims under the ADA and RA because he failed to sufficiently allege that he was discriminated against because of a disability. *See Smith v. Harris Cnty.*, 956 F.3d 311, 318 (5th Cir. 2020). Additionally, Thomas's deliberate indifference claim lacked merit as the record reflects that he received medical treatment for his chronic pain. *See Domino v. Tex. Dep't of Crim. Just.*, 239 F.3d 752, 756 (5th Cir. 2001). His disagreement with that treatment or the conclusions reached by the medical providers does not state a claim for deliberate indifference to serious medical needs. *See Davis v. Lumpkin*, 35 F.4th 958, 963 (5th Cir. 2022). Also, any failure by the defendants to adopt a policy regarding eligibility to participate in the Texas Department of Criminal Justice's Substance Abuse Felony Punishment

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Facility (SAFPF) program fails to allege a constitutional violation because he was ordered to participate in the SAFPF program as a condition of his probation. Finally, because Thomas failed to plead the deprivation of a constitutional right sufficiently, the district court did not err in dismissing his conspiracy claim. *See Hale v. Townley*, 45 F.3d 914, 920 (5th Cir. 1995).

The district court also did not err in determining that the defendants were entitled to qualified immunity because Thomas failed to establish the denial of a constitutional right. *See Whitley v. Hanna*, 726 F.3d 631, 638 (5th Cir. 2013). Moreover, the district court did not err in failing to construe Thomas's objection to the MJ's report and recommendation as a motion to amend because he did not raise new allegations in the objection and instead reasserted the arguments raised in his second amended complaint. *See United States v. Riascos*, 76 F.3d 93, 94 (5th Cir. 1996). Finally, because the district court has an obligation to dismiss an in forma pauperis case at any time if the action fails to state a claim upon which relief could be granted, the district court did not err in dismissing the complaint despite the fact Thomas filed a second amended complaint after the defendants filed motions to dismiss. *See* 28 U.S.C. § 1915(e)(2)(B)(ii).

AFFIRMED.