

UNPUBLISHEDUNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-6542

DANNY L. LOREN,

Plaintiff - Appellant,

v.

DARREN JACKSON; GRAHAM ATKINSON; GREGORY MOSS, JR.; HALEY
PHILLIPS,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of North Carolina, at
Raleigh. Louise W. Flanagan, District Judge. (5:24-ct-03225-FL)

Submitted: October 16, 2025Decided: October 21, 2025

Before KING, AGEE, and RICHARDSON, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Danny L. Loren, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Danny L. Loren appeals the district court's order dismissing his 42 U.S.C. § 1983 complaint under 28 U.S.C. § 1915(e)(2)(B). We have reviewed the record and find no reversible error. Accordingly, we affirm the district court's order. *Loren v. Jackson*, No. 5:24-ct-03225-FL (E.D.N.C. May 27, 2025). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:24-CT-3225-FL

DANNY L LOREN,

Plaintiff,

v.

DARREN JACKSON, GRHAM
ATKINSON, GREGORY MOSS, JR., and
HALEY PHILLIPS,

Defendants.¹

ORDER

Plaintiff, a state inmate proceeding pro se, commenced this action by filing complaint September 18, 2024, asserting claims for violations of his civil rights pursuant to 42 U.S.C. § 1983. The matter is before the court for initial review of the complaint pursuant to 28 U.S.C. § 1915(e)(2)(B), and on plaintiff's motions to appoint counsel (DE 12) and to consolidate cases (DE 13).

COURT'S DISCUSSION

The court begins with the initial review. As a threshold matter, the court previously directed plaintiff to refile his complaint because his handwriting was not sufficiently legible. (DE 4 at 3). Plaintiff timely filed his amended complaint, but his handwriting remains exceedingly difficult to read. (See DE 10). The court's initial review of this action is based on the claims and factual allegations that reasonably can be identified in plaintiff's amended complaint.

¹ The court constructively amends the case caption to reflect severance of former plaintiff Colby Hughes, Roger Clark, Webster Neumann, Jerry D. Reeder, Gregory Speller, Bobby Reece, Grady Stokes, and Ronald Pierce. (DE 4).

Section 1915 provides that courts shall review complaints filed by prisoners seeking leave to proceed in forma pauperis and dismiss such complaints when they are frivolous, malicious, fail to state a claim on which relief may be granted, or if the plaintiff seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B)(i)-(iii). To state a claim on which relief may be granted, the complaint must 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) (quoting Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007)). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” Id. In evaluating whether a claim is stated, “[the] court accepts all well-pled facts as true and construes these facts in the light most favorable to the plaintiff,” but does not consider “legal conclusions, elements of a cause of action, . . . bare assertions devoid of further factual enhancement[,] . . . unwarranted inferences, unreasonable conclusions, or arguments.” Nemet Chevrolet, Ltd. v. Consumeraffairs.com, Inc., 591 F.3d 250, 255 (4th Cir. 2009) (citations omitted).

“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); Phillips v. Pitt Cnty. Mem’l Hosp., 572 F.3d 176, 180 (4th Cir. 2009). A § 1983 plaintiff also must allege the defendants were personally involved in the alleged deprivation of his constitutional rights. See Iqbal, 556 U.S. at 676; Monell v. Dep’t of Soc. Servs., 436 U.S. 658, 691–92 (1978).

Here, plaintiff challenges North Carolina’s parole procedures as applied to his sentence, arguing that the “boilerplate” letters he receives denying parole do not comport with the Fourteenth

Amendment's Due Process Clause. (DE 10 at 5). Plaintiff also vaguely suggests that a North Carolina law increasing the time interval between parole reviews violates the Ex Post Facto Clause of the United States Constitution, and that Parole Commission's determinations that he is not eligible for parole violate his rights to equal protection under the law. (See id. at 5–7).

These claims cannot survive initial review. “There is no right under the Federal Constitution to be conditionally released before the expiration of a valid sentence, and the States are under no duty to offer parole to their prisoners.” Swarthout v. Cooke, 562 U.S. 216, 220 (2011). However, when a state does create a liberty interest, such as by requiring that certain prisoners receive parole consideration, the Due Process Clause “requires fair procedures for its vindication – and federal courts will review the application of those constitutionally required procedures.” Id.; Burnette v. Fahey, 687 F.3d 171, 180–82 (4th Cir. 2012). The procedural requirements are minimal in the context of parole and include only the right to be heard and a statement of the reasons why parole was denied. Swarthout, 562 U.S. at 220; Bowling v. Dir., Virginia Dep’t of Corr., 920 F.3d 192, 200 (4th Cir. 2019). Plaintiff fails to allege specific facts showing that he was not afforded these minimal protections.

To the extent plaintiff alleges an Ex Post Facto Clause violation based on the extended time intervals between his parole reviews, the court previously has rejected this same claim, on the basis of Garner v. Jones, 529 U.S. 244 (2009) and California Dep’t of Corrections v. Morales, 514 U.S. 499 (1995). See Atwater v. Butler, No. 5:15-CT-3229-FL, 2018 WL 4623634, at *3 (E.D.N.C. Sept. 26, 2018), aff’d, 764 F. App’x 397 (4th Cir. 2019). The court reasoned:

In Morales, the Supreme Court held a statute that permitted the parole board to increase the interval between parole reviews did not create a risk of retroactively-increased punishment, in part because the law did not change the statutory punishment imposed for the particular offenses, alter the standards for determining

either the initial date for parole eligibility or suitability for parole, and also did not change the “basic structure” of the state’s parole law. Morales, 514 U.S. at 507, 510-13. Garner also involved an ex post facto challenge to a state law granting the parole board discretion to increase the interval between parole reviews, and the Court ultimately concluded the record failed to establish the law created a sufficient risk of increased punishment. Garner, 529 U.S. at 246, 253-56. In both Garner and Morales, the Court emphasized that the laws permitted the parole board to conduct earlier parole reviews based on a change in circumstances and vested broad discretion in the parole board to grant expedited hearings, thus negating the argument that the statute categorically increased punishment by increasing the interval between parole reviews. Garner, 529 U.S. at 254; Morales, 514 U.S. at 512-13.

Like the statutes at issue in Garner and Morales, [the North Carolina parole statute, N.C. Gen. Stat. § 15A-1371, as amended by 2015 N.C. Sess. Laws 228, § 1 (available at DE 65-14 in the Atwater matter)] does not change the punishment for plaintiff’s underlying offense, alter the standards for establishing either the initial date for parole eligibility or suitability for parole, or otherwise change the basic structure of North Carolina’s parole system. Moreover, as in Garner and Morales, the statute permits the Parole Commission to grant expedited hearings based on exigent circumstances or if the interests of justice demand it. Id. Thus, the court concludes N.C. Gen. Stat. § 15A-1371(as amended) does not on its face create a sufficient risk of retroactively increased punishment. See Hunt v. Rand, No. 5:10-CT-3139-FL, 2011 WL 3664340, at *3 (E.D.N.C. Aug. 18, 2011) (holding similar North Carolina statute changing frequency of parole reviews for certain offenders did not violate Ex Post Facto Clause), aff’d, 461 F. App’x 327 (4th Cir. 2012).

Additionally, to establish an ex post facto violation, plaintiff must demonstrate that “as applied to his own sentence the law created a significant risk of increasing his punishment.” Garner, 529 U.S. at 255. . . . As in Garner, if plaintiff’s circumstances change before his next parole hearing, such that he becomes eligible for parole, he may apply for expedited consideration. Id.; 2015 N.C. Sess. Laws 228, § 1 (DE 65-14 [in the Atwater matter]), amending N.C. Gen. Stat. § 15A-1371(b). Thus, on this record, plaintiff cannot establish that the increased interval between his parole reviews will create a significant risk of increased punishment.

Id. at *3–4 (footnotes omitted).

Here, plaintiff fails to allege any facts distinguishing his vague and conclusory ex post facto claim from the same claim rejected in Atwater. Accordingly, for the same reasons set forth above, he fails to show an ex post facto violation.

Finally, plaintiff asserts that some inmates received shorter sentences than him for the same crime. (DE 10 at 7). This conclusory assertion does not show a violation of the Fourteenth Amendment's Equal Protection Clause. To state an equal protection claim, plaintiff must allege facts showing that "he has been treated differently from others with whom he is similarly situated and that the unequal treatment was the result of intentional or purposeful discrimination. If a plaintiff makes this showing, the court proceeds to determine whether the disparity in treatment can be justified under the requisite level of scrutiny." Veney v. Wyche, 293 F.3d 726, 730-31 (4th Cir. 2002); Morrison v. Garraghty, 239 F.3d 648, 654 (4th Cir. 2001). Plaintiff fails to state an equal protection claim under this standard.

CONCLUSION

Based on the foregoing, this action is DISMISSED pursuant to 28 U.S.C. § 1915(e)(2)(B)(2). All pending motions (DE 12, 13) are DENIED as moot. The clerk is DIRECTED to close this case.

SO ORDERED, this the 27th day of May, 2025.


LOUISE W. FLANAGAN
United States District Judge