

No. _____

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IN THE SUPREME COURT OF THE
UNITED STATES

TWO-THOUSAND-TWENTY-SIX ANNO DOMINI

JOSHUA ISAAC MARTINEZ-PETITIONER

v.

RICKY DIXON, SECRETARY, DEPARTMENT OF

CORRECTIONS OF THE STATE OF FLORIDA-

RESPONDENT

APPENDICES. A-D

ON PETITION FOR WRIT OF HABEAS TO
THE ELEVENTH CIRCUIT COURT OF APPEALS FOR
THE UNITED STATES

Joshua Isaac Martinez (194831)

Suwannee Correctional Institution

5968 U.S. Hwy. 90

Live Oak, Florida 32060, p. 08.

1.

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SUPREME COURT U.S.

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APPENDIX A
App. 1

JILL PRYOR, BRANCH, TJOFLAT, Circuit Judges.

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 24-12000
Non-Argument Calendar

JOSHUA I. MARTINEZ,

Plaintiff-Appellant,

versus

MAYO CORRECTIONAL INSTITUTION,

Defendant,

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Florida
D.C. Docket No. 1:24-cv-00021-MW-MAF

Before JILL PRYOR, BRANCH, and TJOFLAT, Circuit Judges.

PER CURIAM:

Joshua Martinez, a prisoner at Mayo Correctional Institute ("MCI"), appeals the District Court's dismissal of his complaint alleging violations of the Equal Protection Clause of the Fourteenth Amendment for failure to state a claim upon which relief may be granted. Reviewing the District Court's order dismissing the complaint de novo, we find that Martinez failed to plead factual allegations sufficient to sustain a claim that is plausible on its face. Accordingly, we affirm.

I.

On December 10, 2013, Martinez was found guilty of sexual battery on a person less than 12 years of age and sentenced to 78 months' imprisonment followed by 20 years of sex offender probation. While serving his initial sentence, Martinez was found guilty of "preventing or obstructing extinguishment of fire" in violation of Fla. Stat. § 806.10(1) and damaging a sexually violent predator detention or commitment facility in violation of Fla. Stat. § 806.13(5). For these offenses, Martinez was sentenced to an additional 8 years' imprisonment, with a tentative release date of July 6, 2029.

On January 23, 2024, Martinez filed an informal grievance with the MCI mental health division. In his informal grievance, Martinez stated that he was informed that he could not attend sex-offender therapy until he was within twelve months of release. He was especially concerned that his failure to participate in sex offender treatment would negatively affect his chance of early release.

24-12000

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In response, an MCI official informed Martinez that because he had approximately five years left on his sentence, he was not within the time period for the program, and therefore ineligible to participate. However, the official assured him that not participating in the program would not reflect negatively on him since he was not eligible to participate.

Martinez brought this action in the Northern District of Florida seeking a declaration that, among other things, the prison's policy to delay sex-offender treatment until twelve months from release is invidious discrimination in violation of the Fourteenth Amendment's Equal Protection Clause. The District Court dismissed the complaint for failure to state a claim upon which relief may be granted.

Martinez now timely appeals the District Court's order. He argues that the District Court erred in dismissing his complaint because the policy he challenges is not rationally related to the state's penological interests.

II.

We apply the Federal Rule of Civil Procedure 12(b)(6) standards when reviewing sua sponte dismissals under 28 U.S.C. § 1915(e)(2)(B)(ii). *Henley v. Payne*, 945 F.3d 1320, 1331 (11th Cir. 2019) (citing *Mitchell v. Farcass*, 112 F.3d 1483, 1490 (11th Cir. 1997)). We review such dismissals de novo, construing the allegations in the complaint as true. *Hughes v. Lott*, 350 F.3d 1157, 1159–60 (11th Cir. 2003) (citing *Mitchell*, 112 F.3d at 1490).

Pro se pleadings are “held to a less stringent standard and should be liberally construed.” *Taveras v. Bank of Am., N.A.*, 89 F.4th 1279, 1285 (11th Cir. 2024) (citation modified). However, “this leniency does not give a court license to serve as *de facto* counsel for a party, or to rewrite an otherwise deficient pleading in order to sustain an action.” *Campbell v. Air Jamaica Ltd.*, 760 F.3d 1165, 1168–69 (11th Cir. 2014).

III.

The Equal Protection Clause of the Fourteenth Amendment prohibits states from denying “any person within its jurisdiction the equal protection of the laws.” U.S. Const. amend. XIV, § 1. To prevail on an equal protection claim, a plaintiff must show that “(1) he is similarly situated to other prisoners who received more favorable treatment; and (2) the state engaged in invidious discrimination against him based on race, religion, national origin, or some other constitutionally protected basis.” *Sumrall v. Georgia Dep’t of Corr.*, 154 F.4th 1304, 1312 (11th Cir. 2025) (quoting *Sweet v. Sec’y, Dep’t of Corr.*, 467 F.3d 1311, 1318–19 (11th Cir. 2006)).

Pleadings must contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). The Supreme Court clarified in *Ashcroft v. Iqbal* that to survive a motion to dismiss, a complaint must contain sufficient factual allegations to “state a claim to relief that is plausible on its face.” 556 U.S. 662, 678, 129 S. Ct. 1937, 1949 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 547, 127 S. Ct. 1955, 1960

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(2007)). Legal conclusions are not “entitled to the assumption of truth,” and must be “supported by factual allegations.” *Id.* at 679.

Martinez’s Statement of Claims section of his complaint is a mere 1.5 pages with only a single paragraph dedicated to his invidious discrimination claim. In that paragraph, Martinez vaguely references the fact that he was discriminated against due to the “nature of his violation,” but does not make any factual allegations that he was treated less favorably than a similarly situated prisoner or that the state engaged in discrimination against him on a constitutionally protected basis.

Likewise, in the Statement of Facts section, Martinez devotes a single paragraph to describing the conduct that gave rise to the present action. He asserts that a mental health counselor told him that since he was currently ineligible for treatment, he would have to wait until another prisoner who was eligible began treatment, in which case he could join that prisoner’s group.

Neither of these paragraphs contains a single factual allegation relevant to Martinez’s invidious discrimination claim. At best, they contain vague legal conclusions and his opinion on MCI’s mental health treatment policies. In order to survive dismissal, Martinez would have had to allege facts that support the elements of his claim that similarly situated prisoners were treated more favorably than him and that the state invidiously discriminated against him on a constitutionally protected basis.

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Opinion of the Court

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Because Martinez failed to present any factual allegations that suggest that prison officials invidiously discriminated against him in violation of the Equal Protection Clause of the Fourteenth Amendment, the District Court did not err in dismissing Martinez's complaint.

AFFIRMED.

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APPENDIX B
App. 8

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION

JOSHUA I. MARTINEZ,

Plaintiff,

v.

Case No.: 1:24cv21-MW/MAF

RICKY DIXON,

Defendant.

_____ /

ORDER ACCEPTING REPORT AND RECOMMENDATION

This Court has considered, without hearing, the Magistrate Judge's Second Report and Recommendation, ECF No. 13, and has also reviewed *de novo* Plaintiff's objections, ECF No. 14. Notwithstanding Plaintiff's disagreement with the Second Report and Recommendation, this Court agrees with the Magistrate Judge that Plaintiff has failed to state a claim upon which relief may be granted.

Accordingly,

IT IS ORDERED:

The second report and recommendation, ECF No. 13, is **accepted and adopted**, over the Plaintiff's objections, as this Court's opinion. Plaintiff's second amended complaint, ECF No. 11, is **DISMISSED** for failure to state a claim upon which relief may be granted pursuant to 28 U.S.C. § 1915(e)(2). The Clerk shall

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enter judgment stating, "Plaintiff's second amended complaint is **DISMISSED** for failure to state a claim upon which relief may be granted pursuant to 28 U.S.C. § 1915(e)(2)." The Clerk shall note on the docket that this cause was dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and close the file.

SO ORDERED on May 28, 2024.

s/Mark E. Walker
Chief United States District Judge

APPENDIX D
App-13

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION**

**JOSHUA I. MARTINEZ,
D.O.C. #V44831,**

Plaintiff,

vs.

Case No. 1:24cv21-MW-MAF

RICKY DIXON,

Defendant.

SECOND REPORT AND RECOMMENDATION¹

Plaintiff, an inmate proceeding pro se and with in forma pauperis, has filed a second amended complaint [hereinafter "complaint"], ECF No. 11, pursuant to 42 U.S.C. § 1983. The complaint has been reviewed as required by 28 U.S.C. § 1915A to determine if it is sufficient for service.

¹ In March 2024, Plaintiff was ordered to file an amended complaint by March 4, 2024. ECF No. 7. When nothing was received from Plaintiff, a Report and Recommendation was entered on April 15, 2024. ECF No. 9. Plaintiff then filed an objection, ECF No. 10, stating he did not receive the prior Order, even though it was never returned to this Court as undeliverable. He also filed an amended complaint, ECF No. 11, and based on his belated compliance, the first Report and Recommendation was rejected. ECF No. 12.

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Plaintiff alleges that after his conviction in 2013, he was sentenced to 78 months in prison to be followed by 20 years of sex offender probation. ECF No. 11 at 5. Pursuant to his plea agreement, he was subject to civil commitment proceedings and was ultimately transferred from D.O.C. custody to the Florida Civil Commitment Center in 2019. *Id.*

While there, he was able to participate in sex offender group therapy, but refused to do so because he did not want to "disclose his offending history to other group members." *Id.* at 6. Instead, he sought "one on one" counseling and he advises that he "took advantage of it until" April of 2023 when he had another criminal trial. *Id.* He was found guilty of preventing or obstructing a fire extinguisher and damaging the Ryce Detention Facility, and returned to the Department of Corrections to serve an 8-year sentence. *Id.* at 7.

Upon his return, Plaintiff expressed interest in the Department's sex offender treatment program, but was informed that he would be unable to do so until he "was less than twelve months from release." *Id.* Plaintiff indicates that is a matter of policy. *Id.*

Plaintiff seeks a declaration that the policy "to delay sex-offender treatment until twelve-months from release is invidious discrimination in

violation of the Fourteenth Amendment's Equal Protection clause." *Id.* at 8. Plaintiff contends it is "irrationally delaying treatment for those who need it most immediately." *Id.* He asserts a Fourteenth Amendment claim, ECF No. 11 at 8, as well as "liberty-interest" claim, stating he has "a constitutionally protected liberty-interest in remaining free from restraint," which he appears to assert is based on the "unreasonable search and seizure clause." *Id.* at 9.

First, although Plaintiff does not provide any factual allegations to show a causal connection between his claims and the Defendant, Department of Corrections' Secretary Ricky Dixon, the Court acknowledges that the Secretary is generally responsible for created policy for the Department. It is also acknowledged that if Plaintiff was convicted and sentenced in April 2023, he has approximately seven years to wait until he could participate in the sex offender treatment program.

Second, rehabilitation is a valid interest of both the Plaintiff and the Department of Corrections. However, as Plaintiff recognizes, see ECF No. 11 at 9, he has no "constitutional right to rehabilitation." Therefore, Plaintiff does not have a protected liberty interest in participating in rehabilitation programs such as a sex offender treatment program.

(2) whether there are alternative means of exercising the asserted constitutional right that remain open to the inmates;

(3) whether and the extent to which accommodation of the asserted right will have an impact on prison staff, inmates, and the allocation of prison resources generally; and

(4) whether the regulation represents an "exaggerated response" to prison concerns.

Pesci, 935 F.3d at 1166 (quoting Turner, 482 U.S. at 89–91, 107 S.Ct. 2254); see also Pope v. Hightower, 101 F.3d 1382, 1384 (11th Cir. 1996).

In considering these facts, the Court finds there is a "valid, rational connection" to support the policy as the Department operates with limited resources which, in turn, requires limiting availability to certain programs. Plaintiff still has "alternative means" of pursuing his interest in rehabilitation through books and continued mental health counseling which is available to inmates in the Department's custody. Accommodating Plaintiff's interest would, however, create a detrimental impact on the Department's staff, other inmates, and the allocation of resources. As Plaintiff recognized in his complaint, there is a "high number of individuals waiting to get into this type of therapy," and any accommodation must necessarily include considerations of prioritizing needs against the limited number of program slots. Indeed, Plaintiff acknowledges that the "ones who need" this

Moreover, the Department has authority to create rules which may impose limits and restrictions on the programs offered to prisoners. A prisoner may challenge a rule that he believes violates his constitutional rights, and the United States Supreme Court fashioned a standard for evaluating such claims which was set forth in Turner v. Safley, 482 U.S. 78, 89-90, 107 S. Ct. 2254, 96 L. Ed. 2d 64 (1987). The Court recognized that prison walls "do not form a barrier separating prison inmates from the protections of the Constitution." 482 U.S. at 84, 107 S. Ct. 2254 (quoted in Pesci v. Budz, 935 F.3d 1159, 1165 (11th Cir. 2019)).

"In an effort to vindicate both 'the need to protect constitutional rights' and the need for 'judicial restraint regarding prisoner complaints,' Turner set out the ground rules for evaluating prisoners' constitutional claims: When a prison regulation or policy 'impinges on inmates' constitutional rights, the regulation is valid if it is reasonably related to legitimate penological interests.'" Pesci, 935 F.3d at 1165-66 (quoting Turner, *Id.* at 85, 89, 107 S. Ct. 2254). The Court identified four facts which focus the reasonableness inquiry:

(1) whether there is a "valid, rational connection" between the regulation and a legitimate governmental interest put forward to justify it;

treatment “most immediately . . . are those charged with violent crimes, especially sexually deviant ones, in order that they may benefit from the recent lessons learned when released.” ECF No. 11 at 9. Finally, the policy is not an “exaggerated response” to the Department’s concern with limited availability to its programs. Those who can most benefit from the treatment because they will be released from prison within 12 months are allowed to participate. The policy Plaintiff challenges is reasonable, and should be upheld. In a world of limited resources, it is often necessary to limit access to certain rehabilitation programs to those inmates nearing the end of their sentences.

Moreover, while Plaintiff alleges an equal protection violation, it is also insufficient. The Equal Protection Clause does not require that all prisoners be provided “identical treatment.” Howard v. Coonrod, 546 F. Supp. 3d 1121, 1134 (M.D. Fla. 2021) (rejecting equal protection claim concerning different sentences imposed). Instead, different treatment is permissible so long as there is a “rational basis” for the difference. See Clark v. Community for Creative Non-Violence, 468 U.S. 288, 295, 104 S. Ct. 3065, 3070, 82 L. Ed. 2d 221 (1984) (rejecting equal protection claim found to be “a time, place, or manner regulation”). The “rational basis test”

considers whether a challenged rule or policy furthers a legitimate government purpose. See Joel v. City of Orlando, 232 F.3d 1353, 1358 (11th Cir. 2000). Here, the Department's policy, as alleged by Plaintiff, is rationally related to conserving limited resources in providing a program to those who need it most immediately. The more distant the program is from an inmate's release, the more likely it is to have a lesser impact. There is a rational basis which supports the policy and Plaintiff's equal protection claim should be dismissed.

In addition, the Court notes that Plaintiff has not otherwise demonstrated an equal protection claim based on other prisoners receiving "more favorable treatment" because he has not alleged that the Department "engaged in invidious discrimination against him based on race, religion, national origin, or some other constitutionally protected basis." Sweet v. Sec'y, Dep't of Corr., 467 F.3d 1311, 1318-19 (11th Cir. 2006). Plaintiff does not present any factual allegations which suggest that prison officials treated him differently because of "some form of invidious discrimination tied to a constitutionally protected-interest." Sweet, 467 F.3d at 1319.

No other potential constitutional claims are apparent and, thus, it does not appear that allowing Plaintiff another opportunity to submit a third amended complaint would be beneficial. Accordingly, it is recommended that this case be dismissed for failure to state a claim upon which relief may be granted.

RECOMMENDATION

It is respectfully **RECOMMENDED** that Plaintiff's second amended complaint, ECF No. 11, be **DISMISSED** for failure to state a claim upon which relief may be granted pursuant to 28 U.S.C. § 1915(e)(2), and that the Order adopting this Report and Recommendation direct the Clerk of Court to note on the docket that this cause was dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

IN CHAMBERS at Tallahassee, Florida, on May 2, 2024.

S/ Martin A. Fitzpatrick
MARTIN A. FITZPATRICK
UNITED STATES MAGISTRATE JUDGE

NOTICE TO THE PARTIES

Within fourteen (14) days after being served with a copy of this Report and Recommendation, a party may serve and file specific written objections to these proposed findings and recommendations. Fed. R. Civ. P. 72(b)(2). A copy of the objections shall be served upon all other parties. A party may respond to another party's objections within fourteen (14) days after being served with a copy thereof. Fed. R. Civ. P. 72(b)(2). Any different deadline that may appear on the electronic docket is for the Court's internal use only and does not control. If a party fails to object to the Magistrate Judge's findings or recommendations as to any particular claim or issue contained in this Report and Recommendation, that party waives the right to challenge on appeal the District Court's order based on the unobjected-to factual and legal conclusions. See 11th Cir. Rule 3-1; 28 U.S.C. § 636.

24-12000

Joshua I. Martinez

#V44831

Suwannee CI - Inmate Legal Mail

5964 US HWY 90

LIVE OAK, FL 32060

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.call.uscourts.gov

May 19, 2026

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 24-12000-CC

Case Style: Joshua Martinez v. Secretary, Florida Department of Corrections

District Court Docket No: 1:24-cv-00021-MW-MAF

The enclosed order has been entered on petition(s) for rehearing.

See Rule 41, Federal Rules of Appellate Procedure, and Eleventh Circuit Rule 41-1 for information regarding issuance and stay of mandate.

Clerk's Office Phone Numbers

General Information: 404-335-6100

Case Administration: 404-335-6135

CM/ECF Help Desk: 404-335-6125

Attorney Admissions:

Capital Cases:

Cases Set for Oral Argument:

404-335-6122

404-335-6200

404-335-6141

REHG-1 Ltr Order Petition Rehearing

In the
United States Court of Appeals
For the Eleventh Circuit

No. 24-12000

JOSHUA I. MARTINEZ,

Plaintiff-Appellant,

versus

MAYO CORRECTIONAL INSTITUTION,

Defendant,

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Florida
D.C. Docket No. 1:24-cv-00021-MW-MAF

Before JILL PRYOR, BRANCH and TJOFLAT, Circuit Judges.

PER CURIAM:

The "Appellant's Motion for Rehearing" construed as a Petition for Panel Rehearing filed by Appellant Joshua I. Martinez is DENIED.

**Additional material
from this filing is
available in the
Clerk's Office.**