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WRITING SAMPLE

This writing sample is an excerpt from the appellant’s opening brief in *Bass v. Keebaugh*, filed in the United States Court of Appeals for the Sixth Circuit. I prepared it as a student intern in the UCLA School of Law Prisoners’ Rights Clinic, which represented Mr. Bass on appeal. Mr. Bass is a Michigan prisoner whose prose civil-rights complaint was dismissed with prejudice at screening under 28 U.S.C. § 1915A.

The excerpt argues that the district court abused its discretion by dismissing the complaint with prejudice, without leave to amend. The Sixth Circuit agreed: while it held that the complaint as pleaded did not yet state an Eighth Amendment claim, it concluded that the with-prejudice dismissal was an abuse of discretion, vacated the dismissal, and remanded with instructions to allow Mr. Bass leave to amend.

I researched and drafted the three sections excerpted here—the Statement of the Case, the Standards of Review, and the argument that the district court abused its discretion in dismissing the complaint with prejudice without leave to amend. My supervising clinic professor authorized this submission. The brief as filed reflects revisions by the clinic’s litigation team and is available at the URL above.

I revised this excerpt in July 2026—tightening the prose and updating the citations, including conforming the screening standard to *Hill v. Lappin*, 630 F.3d 468 (6th Cir. 2010)—so the sample reflects my current work; those revisions are mine alone.

STATEMENT OF THE CASE

I. Factual Background

A. **Defendants forced Mr. Bass, already confined to his cell over twenty-three hours a day, to sleep on a concrete slab with protruding metal screws for a month.**

Prison officials took Mr. Bass's mattress based on a property-related misconduct charge that was later dismissed, forcing him to sleep for a month on a concrete slab with metal screws jabbing into his body.¹ ECF No. 1, PageID.3; ECF No. 1-1, PageID.10–11, 14. Housed in the Michigan Department of Corrections' (MDOC) most restrictive form of solitary confinement, Mr. Bass had nothing but this concrete slab or a prison cell floor to lie or rest on for nearly twenty-four hours a day, thirty days straight. ECF No. 1, PageID.2–3; ECF No. 1-1, PageID.11, 14; *see* MDOC Policy 04.05.120, 6 ¶ 21. Although Mr. Bass repeatedly asked officers to give him back his mattress both before and after the misconduct charge was dismissed, officers ignored him. ECF No. 1, PageID.3; ECF No. 1-1, PageID.11–15. Mr. Bass then filed grievances; Defendants denied each one. ECF No. 1-1, PageID.11, 14. Despite his repeated requests, Mr. Bass spent an entire month without a mattress, shielding his body from the metal screws as he tried to sleep, resulting in a cascade of physical, mental, and psychological injuries. ECF No. 1, PageID.5.

¹ The factual background is compiled from Mr. Bass's complaint, ECF No. 1, PageID.1–5; its attached documents, ECF No. 1-1, PageID.9–15; the district court's decision and judgment, ECF No. 6, PageID.34; and publicly available policy statements published by the Michigan Department of Corrections, which the district court cited in its decision dismissing the complaint. Mr. Bass's factual allegations are taken as true. *See, e.g., Thomas v. Eby*, 481 F.3d 434, 437 (6th Cir. 2007).

B. Defendant Deputy Warden Bonn continued the mattress deprivation without justification despite Mr. Bass's pleas to Officer Keebaugh, Bonn, and other prison staff.

On February 6, 2024, Defendant Correctional Officer Keebaugh (Defendant Keebaugh) issued Mr. Bass a class II misconduct charge alleging “destruction/misuse of state property” and requested that Mr. Bass be placed on mattress restriction. ECF No. 1, PageID.3; ECF No. 1-1, PageID.9–10. Mr. Bass’s administrative hearing was set for February 15, 2024. But officers took his mattress six days earlier, on February 9, before he could defend himself against the charge. ECF No. 1, PageID.3; ECF No. 1-1, PageID.14.

Even before the hearing, Mr. Bass talked to prison staff to try to get his mattress back. ECF No. 1-1, PageID.14 (explaining that Mr. Bass tried to resolve the issue on February 15, 2024). Likewise, Defendant Deputy Warden Bonn (Defendant Bonn) “signed off and approved” Mr. Bass’s monthlong mattress restriction before the hearing. *Id.* Defendant Keebaugh and other prison staff saw—and ignored—the conditions of Mr. Bass’s cell during the visual inspections required every thirty minutes in the segregation unit. MDOC Policy 04.05.120, 10 ¶ VV.

At the February 15, 2024 administrative hearing, Lieutenant Hicks (Hicks) dismissed Mr. Bass’s misconduct charge. ECF No. 1-1, PageID.10. Despite the dismissal, Defendant Bonn still approved Mr. Bass’s mattress restriction. ECF No. 1, PageID.3; ECF No. 1-1, PageID.10–11, 14; *Bass v. Keebaugh*, No. 1:24-CV-744, 2024 WL 3738106, at *3 n.2 (W.D. Mich. Aug. 8, 2024) (finding that “the restriction was imposed on the authority of Defendant Bonn”).

On February 16, 2024, after Hicks dismissed the misconduct charge, Mr. Bass spoke with three other prison officials to try to get his mattress back. ECF No. 1-1, PageID.14 (explaining that Mr. Bass tried to resolve the issue on both February 15 and 16, 2024); *id.* at PageID.11 (explaining that Mr. Bass spoke with three prison officials on February 16, 2024). None answered Mr. Bass’s pleas. ECF No. 1, PageID.3.

When those attempts went unanswered, Mr. Bass filed a grievance on February 19, 2024. ECF No. 1-1, PageID.11, 14. By then, officers had withheld his mattress for ten days without any finding of misconduct. *See* ECF No. 1, PageID.3 (alleging that the mattress removal began on February 9, 2024); ECF No. 1-1, PageID.10 (dismissing the misuse-of-property charge). Mr. Bass then exhausted the grievance process.

Defendant Bonn continued to authorize the deprivation, and Mr. Bass slept—or tried to—on the concrete slab of screws for an entire month. ECF No. 1, PageID.4; MDOC Policy 04.05.120, 7–8 ¶¶ HH, JJ (mattress restriction can be approved only by the warden or deputy warden and must be reviewed every seven days).

C. MDOC policy did not permit removing Mr. Bass’s mattress.

MDOC policy guarantees all prisoners basic necessities, including a mattress. MDOC Policy 04.07.110, 1 (guaranteeing “cell/room furnishings for . . . basic personal needs”); MDOC Policy 04.05.120, 5 ¶ AA.10 (guaranteeing a mattress); MDOC Policy 03.03.130, 1 (guaranteeing humane treatment and dignity “in matters of . . . personal

safety[] and general living conditions”). Officials may withhold a mattress, but only in limited circumstances. None was present here. A mattress may be withheld only for “serious reasons of health, safety, or security related to the item . . . upon written approval from the Warden or Deputy Warden” and “[n]o item . . . shall be withheld from a prisoner for the purpose of punishment.” MDOC Policy 04.05.120, 7 ¶¶ HH, JJ. Here, the record contains none of those bases for the mattress deprivation. Instead, Defendant Keebaugh requested the restriction as punishment for the alleged misconduct, and Defendant Bonn gave no reason for approving it. ECF No. 1-1, PageID.9; *see also* ECF No. 1, PageID.3 (Mr. Bass explained that he was “not in violation of any rule, and shouldn’t be punished”).

“[R]estrictions of any kind shall be imposed only as long as is necessary to address a health, safety, or security concern.” MDOC Policy 04.05.120, 7 ¶ JJ. No Defendant invoked any of those justifications. The restriction thus violated MDOC policy from the moment officers took the mattress on February 9, 2024—and all the more once the misconduct charge was dismissed six days later. ECF No. 1, PageID.3; ECF No. 1-1, PageID.11, 14.

D. Procedural History

On July 17, 2024, without counsel, Mr. Bass filed a civil-rights action under 42 U.S.C. § 1983 against Defendant Keebaugh and Defendant Bonn. *Bass*, 2024 WL 3738106, at *1–2; ECF No. 1, PageID.1. In his complaint, Mr. Bass alleged that by forcing him to sleep on a concrete slab with screws protruding into his body, Defendants violated his right to be free from cruel and unusual punishment under

the Eighth Amendment. *Id.* at PageID.3–4. He also alleged that Defendants retaliated against him, in violation of the First Amendment, when they continued to deprive him of a mattress after the misconduct charge was dismissed. *Id.* Mr. Bass alleged that Defendants’ conduct caused him “significant hardship, mental, physical, and psychological injury.” *Id.* at PageID.5. As relief, he sought compensatory and punitive damages. *Id.*

The district court dismissed Mr. Bass’s complaint with prejudice under the screening procedures of the Prison Litigation Reform Act (PLRA), 28 U.S.C. §§ 1915(e)(2) and 1915A(b), and 42 U.S.C. § 1997e(c). *Bass*, 2024 WL 3738106, at *1. That is, the court dismissed Mr. Bass’s first complaint without providing him with an opportunity to amend it and before Defendants were served or required to answer. *Id.*

In explaining its decision to dismiss the complaint, the district court first concluded that Mr. Bass failed to state a claim under the First Amendment because he did not allege that he engaged in protected conduct before Defendant Keebaugh wrote the misconduct ticket or Defendant Bonn approved the mattress restriction. *Id.* at *3. The court did not address Mr. Bass’s allegation that Defendants retaliated against him after the misconduct allegation was dismissed, by which time Mr. Bass had submitted several oral and written grievances. ECF No. 1-1, PageID.11, 14.

Turning to the Eighth Amendment claim, the district court stated that Mr. Bass “does not allege that he suffered any particular discomfort or pain as a result of the mattress restriction.” *Id.* The court said so even though Mr. Bass’s complaint

alleged that Defendants’ conduct caused “significant hardship, mental, physical, and psychological injury.” ECF No. 1, PageID.5.

The district court nevertheless described Mr. Bass’s monthlong mattress restriction as “part of the penalty that criminal offenders pay for their offenses against society,” *Bass*, 2024 WL 3738106, at *3 (quoting *Hudson v. McMillian*, 503 U.S. 1, 9 (1992)), and held that Mr. Bass’s “unpleasant . . . temporary placement on a mattress restriction fails to state an Eighth Amendment claim” because it “falls within the range of durations that are routinely found to be acceptable.” *Id.* The district court also found that Mr. Bass failed to satisfy the subjective or objective prongs under the Eighth Amendment but analyzed neither beyond a cursory sentence. *Id.* at *4.

After conducting its preliminary review under the PLRA, the district court dismissed Mr. Bass’s complaint with prejudice. *Id.* (citing 28 U.S.C. §§ 1915(e)(2) and 1915A(b), and 42 U.S.C. § 1997e(c)); ECF No. 6, PageID.34. Mr. Bass timely filed a notice of appeal.

* * *

STANDARDS OF REVIEW

The PLRA’s screening procedures require district courts to dismiss a prisoner’s civil-rights action if it is frivolous, malicious, or fails to state a claim upon which relief may be granted. 28 U.S.C. § 1915A(b)(1); 42 U.S.C. § 1997e(c). This Court reviews de novo a district court’s decision to dismiss such a lawsuit. *Hill v. Lappin*, 630 F.3d 468, 470 (6th Cir. 2010).

In reviewing a dismissal order, this Court must “construe the complaint in the light most favorable to the plaintiff [and] accept all well-pleaded factual allegations as true[.]” *Trzebuckowski v. City of Cleveland*, 319 F.3d 853, 855 (6th Cir. 2003). To survive screening, “a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.” *Hill*, 630 F.3d at 471 (applying the *Iqbal* and *Twombly* standard to dismissals under §§ 1915A(b)(1) and 1915(e)(2)(B)(ii)). This analysis “is a test of the plaintiff’s cause of action as stated in the complaint, not a challenge to the plaintiff’s factual allegations.” *Golden v. City of Columbus*, 404 F.3d 950, 958–59 (6th Cir. 2005). The Court “may not uphold” a dismissal “simply because we find the plaintiff’s allegations unlikely.” *Thomas*, 481 F.3d at 437 (citation modified). Because courts hold pro se plaintiffs to less stringent standards than lawyers, their complaints must be “liberally construed.” *Williams v. Curtin*, 631 F.3d 380, 383 (6th Cir. 2011).

* * *

B. Because the district court abused its discretion when it dismissed Mr. Bass’s Eighth Amendment claim with prejudice, this Court should grant leave to amend.

The district court gave Mr. Bass no chance to fix what it faulted him for omitting. That was an abuse of discretion.

The court rejected Mr. Bass’s Eighth Amendment claim based in large part on its erroneous assertion that Mr. Bass did “not allege that he suffered any particular discomfort or pain as a result of the mattress restriction.” ECF No. 6, PageID.34; *Bass*, 2024 WL 3738106, at *3. The complaint said otherwise: it alleged

that Defendants' actions caused him "significant hardship, mental, physical, and psychological injury." ECF No. 1, PageID.5. Throughout the complaint, Mr. Bass alleged facts establishing that he suffered serious physical injuries. *See, e.g.*, ECF No. 1, PageID.3 ("This is cruel and unusual punishment[,] being forced to sleep on a concrete slab with metal screws for a 30 day period."). And as discussed above, Mr. Bass's complaint sufficiently pleaded an Eighth Amendment violation to survive screening.

But if the court thought those allegations too thin, it should have let Mr. Bass amend and describe his injuries in detail. Had the court allowed amendment, Mr. Bass would have supplied those details.

The complaint alleged that prison officials forced Mr. Bass to sleep on a concrete slab with metal screws. An amended complaint could describe those conditions with specificity: the screws were about four to six inches long and protruded upward from the slab. They clustered at three points along the slab, pressing into Mr. Bass's legs and back and sitting near his face. Mr. Bass thus could not lie on the slab without the screws pressing into his body. The only other surface was the cell floor. But the ground was infested with biting insects and wet feculent matter leaking from the cell's toilet and adjacent cells. With no access to cleaning supplies, Mr. Bass had nowhere but the bed of screws to lie down, rest, or try to sleep for a month. An amended complaint could also detail the physical and psychological injuries that followed.

First, during the month without a mattress, Mr. Bass could barely sleep. When he drifted off, nightmares woke him. And he grew paranoid, fearing he would roll onto the screws and knock out his teeth. Although Mr. Bass sought help from a therapist, he continues to suffer nightmares and paranoid delusions to this day.

Second, Mr. Bass fought the screws to keep them from puncturing his face; as he blocked them, they pressed into his forearms, which swelled overnight. Worse, lying on the protruding screws caused nerve damage that persists today: Mr. Bass cannot walk without pain—a condition he did not have before losing his mattress—and he now requires medical care, including an MRI to diagnose the condition.

Finally, Mr. Bass endured these conditions even longer than segregation required: some days he remained in the mattressless cell all day, without recreation or shower time.

The district court gave no reason for denying leave to amend. That lack of explanation was itself an abuse of discretion. *Parchman v. SLM Corp.*, 896 F.3d 728, 736 (6th Cir. 2018) (holding that a district court abuses its discretion by denying leave to amend without explanation). Nor would amendment be futile: Mr. Bass could answer the court’s doubts with the details set out above—the conditions he endured and the injuries they caused. The district court’s own authority shows why those details matter: mattress deprivations defeat Eighth Amendment claims only “[i]n the absence of evidence that a prisoner suffered a physical injury.”

Richmond v. Settles, 450 F. App’x 448, 455 (6th Cir. 2011). An amended complaint

would supply that evidence—the nerve damage, swollen forearms, and lasting pain that a month on the screws inflicted.

If this Court does not reverse outright, it should vacate the dismissal and remand with instructions to grant Mr. Bass leave to amend his Eighth Amendment claim.