

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

LEONARD M. TAYLOR,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civ. No. 11-274-LPS
	:	
CARL C. DANBERG, et al.,	:	
	:	
Defendants.	:	

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Leonard M. Taylor, Howard R. Young Correctional Institution, Wilmington, Delaware, Pro Se Plaintiff.

**MEMORANDUM OPINION**

October 2, 2012  
Wilmington, Delaware



**STARK, U.S. District Judge:**

**I. INTRODUCTION**

Plaintiff Leonard M. Taylor (“Plaintiff”), filed this action pursuant to 42 U.S.C. § 1983 alleging violations of his constitutional rights.<sup>1</sup> Plaintiff is incarcerated at the Howard R. Young Correctional Institution in Wilmington, Delaware. He appears *pro se* and has been granted leave to proceed *in forma pauperis*. (D.I. 7) The Court proceeds to review and screen the Complaint pursuant to 28 U.S.C. § 1915 and § 1915A.<sup>2</sup>

**II. BACKGROUND**

Plaintiff alleges that he was denied access to the courts because he was unable to properly prepare for his criminal case. He alleges that his paid legal counsel “wasn’t for his best interest.” Plaintiff did not like the strategy used by defense counsel and alleges that because he was “ignorant to the laws,” Plaintiff was unable detect foul play by his attorney.<sup>3</sup> Plaintiff alleges that the outcome of his criminal trial would have been different had he had access to the law library.

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<sup>1</sup>Pursuant to 42 U.S.C. § 1983, a plaintiff must allege that some person has deprived him of a federal right, and that the person who caused the deprivation acted under color of state law. *See West v. Atkins*, 487 U.S. 42, 48 (1988).

<sup>2</sup>The Complaint named an additional plaintiff, Raymond E. Blake (“Blake”). Because Plaintiff’s and Blake’s claims were unrelated, a new case was opened for Blake. The Court does not consider, and strikes, Blakes’s allegations found at exhibit A of the Complaint. (D.I. 2)

<sup>3</sup>To the extent that Plaintiff attempts to raise a § 1983 claim against his attorney, the claim fails. While his retained defense counsel is the lawyer who represented him in his criminal case, he is not “clothed with the authority of state law.” *See Reichley v. Pennsylvania Dep’t of Agric.*, 427 F.3d 236, 244-45 (3d Cir. 2005); *Biener v. Calio*, 361 F.3d 206, 216-17 (3d. Cir. 2004).



12(b)(6) motions. *See Tourscher v. McCullough*, 184 F.3d 236,240 (3d Cir. 1999). However, before dismissing a complaint or claims for failure to state a claim upon which relief may be granted pursuant to the screening provisions of 28 U.S.C. §§ 1915 and 1915A, the Court must grant Plaintiffs leave to amend their complaint, unless amendment would be inequitable or futile. *See Grayson v. Mayview State Hosp.*, 293 F.3d 103, 114 (3d Cir. 2002).

A well-pleaded complaint must contain more than mere labels and conclusions. *See Ashcroft v. Iqbal*, \_\_ U.S. \_\_, 129 S.Ct. 1937 (2009); *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007). The assumption of truth is inapplicable to legal conclusions or to “[t]hreadbare recitals of the elements of a cause of action supported by mere conclusory statements.” *Iqbal*, 129 S.Ct. at 1949. When determining whether dismissal is appropriate, the Court conducts a two-part analysis. *See Fowler v. UPMC Shadyside*, 578 F.3d 203, 210 (3d Cir. 2009). First, the factual and legal elements of a claim are separated. *See id.* The Court must accept all of the complaint’s well-pleaded facts as true, but may disregard any legal conclusions. *See id.* at 210-11. Second, the Court must determine whether the facts alleged in the complaint are sufficient to show that the plaintiff has a “plausible claim for relief.” *Id.* at 211. In other words, the complaint must do more than allege the plaintiff’s entitlement to relief; rather, it must “show” such an entitlement with its facts. *Id.* A claim is facially plausible when its factual content allows the Court to draw a reasonable inference that the defendant is liable for the misconduct alleged. *See Iqbal*, 129 S.Ct. at 1949. The plausibility standard “asks for more than a sheer possibility that a defendant has acted unlawfully.” *Id.* “Where a complaint pleads facts that are ‘merely consistent with’ a defendant’s liability, it ‘stops short of the line between possibility and plausibility of ‘entitlement to relief.’” *Id.* (quoting *Twombly*, 550 U.S. at 570).

#### IV. DISCUSSION

Prisoners must be allowed “adequate, effective and meaningful” access to the courts. *Bounds v. Smith*, 430 U.S. 817, 822 (1977) (holding that prisons must give inmates access to law libraries or direct legal assistance). A violation of the First Amendment right of access to the courts is only established where a litigant shows that he was actually injured by the alleged denial of access. The actual injury requirement is a constitutional prerequisite to suit. *See Lewis v. Casey*, 518 U.S. 343, 351 (1996); *Christopher v. Harbury*, 536 U.S. 403, 415 (2002) (explaining that constitutional right of access is “ancillary to the underlying claim, without which a plaintiff cannot have suffered injury by being shut out of court”)

Where an inmate is represented by counsel, his right of access to the courts is satisfied as a matter of law. *See Lamp v. Iowa*, 122 F.3d 1100, 1106 (8th Cir. 1997) (“For, once the State has provided a petitioner with an attorney in postconviction proceedings, it has provided him with the ‘capability of bringing contemplated challenges to sentences or conditions of confinement before the courts.’”) (quoting *Lewis v. Casey*, 518 U.S. 343, 356 (1996)); *Schrier v. Halford*, 60 F.3d 1309, 1313-1314 (8th Cir. 1995) (having appointed counsel is one way in which State can assure access to courts); *Sanders v. Rockland Cnty. Corr. Facility*, 1995 WL 479445, at \*2 (S.D.N.Y. Aug. 14, 1995) (“By the appointment of counsel, plaintiff was afforded meaningful access to the courts in his trial.”); *Williams v. Vaughn*, 1991 WL 34429, at \*4 (E.D. Pa. March 12, 1991) (“Thus, [plaintiff-inmate] Williams was not actually injured by any inability to gain access to the law library since he ultimately obtained representation.”). It is clear from Plaintiff’s allegations that he was represented by counsel during his criminal proceedings. Accordingly, his access to the courts claim fails as a matter of law.

Therefore, the Court will dismiss the Complaint as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B) and § 1915A(b)(1).

**V. CONCLUSION**

For the above reasons, the Court will dismiss the Complaint as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B) and § 1915A(b)(1). Amendment is futile.

An appropriate Order follows.