

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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JONATHAN WILLIAM NAWROCKI,

Petitioner,

v.

RACINE COUNTY JAIL as a whole,

Respondent.  
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ORDER

08-cv-96-bbc

This is a proposed civil action brought under 42 U.S.C. § 1983. Petitioner Jonathan Nawrocki, a prisoner who at times relevant to this complaint was housed at the Racine County Jail in Racine, Wisconsin, requests leave to proceed under the in forma pauperis statute, 28 U.S.C. § 1915. In his complaint, petitioner contends that the conditions at the Racine County jail violate the Eighth Amendment of the United States Constitution.

Petitioner has made his initial partial payment in accordance with 28 U.S.C. § 1915. However, because petitioner is a prisoner, I am required under the 1996 Prison Litigation Reform Act to screen his complaint and dismiss any claims that are legally frivolous, malicious, fail to state a claim upon which relief may be granted or asks for money damages from a defendant who by law cannot be sued for money damages. 28 U.S.C. §§ 1915 and

1915A. In addressing any pro se litigant's complaint, the court must read the allegations of the complaint generously. Haines v. Kerner, 404 U.S. 519, 521 (1972).

In his complaint, petitioner describes the conditions at the Racine County jail, where he was held for a week while attending a trial. While at the jail, petitioner was placed in two holding cells for a total of 36 hours before he was moved to one of the “pods.” The holding cells were very small in size (12 feet by 10 feet and 10 feet by 8 feet, respectively), illuminated 24 hours a day, contained no bedding and were used to hold as many as thirteen people at a time. At one point, a deputy used a tool to remove a clog from a toilet in the smaller cell and banged the tool on the floor, which sprayed feces and toilet water on the walls and floor. Even after petitioner was moved to a cell in the “pod” he was not given a mattress, so he was forced to sleep on a concrete floor.

Although petitioner’s allegations are disturbing, I cannot address their merits because petitioner does not identify any jail staff responsible and the only respondent petitioner named is “the Racine County Jail as a whole.” As I explained to petitioner in another lawsuit he filed recently, a building is not a proper party to a lawsuit brought under 42 U.S.C. § 1983. Nawrocki v. Linder, Case No. 08-cv-14-bbc, (W.D. Wis. March X, 2008). Therefore, his complaint must be dismissed on that ground.

ORDER

IT IS ORDERED that:

1. Petitioner Jonathan Nawrocki's request for leave to proceed in forma pauperis on his Eighth Amendment claim is DENIED and this case is DISMISSED with prejudice for petitioner's failure to state a claim upon which relief may be granted;
2. The unpaid balance of petitioner's filing fee is \$337.33; this amount is to be paid in monthly payments according to 28 U.S.C. § 1915(b)(2);
3. A strike will be recorded against petitioner pursuant to § 1915(g); and
4. The clerk of court is directed to close the file.

Entered this 7<sup>th</sup> day of March, 2008.

BY THE COURT:

/s/

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BARBARA B. CRABB  
District Judge