

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

SHAUN MATZ,

Plaintiff,

v.

MICHAEL VANDENBROOK, KURT SCHWEBKE,
DR. NELSON, SEAN SALTER,
LT. LANE, LINDA FAIT, TRAVIS BITTLEMAN,
C.O. VASOS and C.O B. NEUMAIER,

Defendants.

ORDER

10-cv-668-bbc

Plaintiff Shaun Matz is proceeding on the following claims under the Eighth Amendment:

(1) defendant Kurt Schwebke is keeping him in conditions that exacerbate his mental illness and refusing to provide mental health treatment;

(2) in August 2007, defendants Michael Vandebrook, Travis Bittleman and Vasos knew there was a substantial risk that plaintiff would seriously harm himself, but they failed to take reasonable steps to help him;

(3) on July 2, 2009, defendant Neumaier knew there was a substantial risk that

plaintiff would seriously harm himself, but Neumaier failed to take reasonable steps to help him;

(4) on July 3, 2009, defendants Nelson and Schwebke knew there was a substantial risk that plaintiff would seriously harm himself, but they failed to take reasonable steps to help him;

(5) defendants Linda Fait and Lt. Lane recommended plaintiff for a transfer to Green Bay Correctional Institution, even though they knew that doing so would subject plaintiff to a substantial risk of serious self harm; and

(6) defendants Lane and Sean Salter placed plaintiff in segregation for 240 days for harming himself, even though they knew that plaintiff was mentally ill and that placing him in segregation would exacerbate his mental illness.

On March 6, 2012, plaintiff filed a seconded amended complaint in which he abandoned many of these claims. Dkt. #45. Instead, he focused on claims that defendants are violating his rights under the Eighth Amendment by failing to provide him adequate mental health treatment and housing him in conditions that exacerbate his mental illness. He did not seek to dismiss any of the defendants, but he asked to add six new ones: Byron Bartow, Brian Benthion, Michael Meisner, Janet Nickel, Tim Duma and D. Morgan.

The problem with the second amended complaint was that plaintiff failed to identify how each of the defendants was personally involved in determining plaintiff's housing

conditions or otherwise determining his mental health treatment. In an order dated March 27, 2012, I gave plaintiff an opportunity to amend his complaint to correct this deficiency. Dkt. #48.

In his third amended complaint, plaintiff has reinstated claims 2-5 listed above, except that he has omitted most of the dates, so I will do the same. With respect to the first claim, he has dropped defendant Schwebke and replaced him with new defendants Bartow, Benthion, Meisner, Nickel, Duma and Morgan. In particular, he alleges that they are responsible for his conditions of confinement and are refusing to provide him adequate mental health treatment and are housing him in conditions that are exacerbating his mental illness. Because I already have concluded that plaintiff has stated a claim on the same allegations as to defendant Schwebke, I will allow plaintiff to proceed against the new defendants.

ORDER

IT IS ORDERED that the third amended complaint filed by plaintiff Shaun Matz, dkt. #49, is ACCEPTED as the operative pleading and he is GRANTED leave to proceed on the following claims:

(1) defendants Byron Bartow, Brian Benthion, Michael Meisner, Janet Nickel, Tim Duma and D. Morgan are keeping plaintiff in conditions that exacerbate his mental illness

and refusing to provide mental health treatment;

(2) in August 2007, defendants Michael Vandebrook, Travis Bittleman and Vasos knew there was a substantial risk that plaintiff would seriously harm himself, but they failed to take reasonable steps to help him;

(3) defendant B. Neumaier knew there was a substantial risk that plaintiff would seriously harm himself, but Neumaier failed to take reasonable steps to help him;

(4) defendants Nelson and Schwebke knew there was a substantial risk that plaintiff would seriously harm himself, but they failed to take reasonable steps to help him;

(5) defendants Linda Fait and Lt. Lane recommended plaintiff for a transfer to Green Bay Correctional Institution, even though they knew that doing so would subject plaintiff to a substantial risk of serious self harm; and

(6) defendants Lt. Lane and Sean Salter placed plaintiff in segregation for 240 days for harming himself, even though they knew that plaintiff was mentally ill and that placing him in segregation would exacerbate his mental illness.

Entered this 24th day of April, 2012.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge