

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

MATTHEW STECHAUNER,

Plaintiff,

v.

RICK RAEMISCH, MICHAEL THURMER
and GARY ANKARLO,

Defendants.

ORDER

10-cv-777-bbc

In this proposed civil action for injunctive and monetary relief brought under 42 U.S.C. § 1983, plaintiff Matthew Stechauner contends that defendants Rick Raemisch, Michael Thurmer and Gary Ankarlo were deliberately indifferent to his mental health needs in violation of his rights under the Eighth Amendment. Plaintiff is proceeding under the in forma pauperis statute, 28 U.S.C. § 1915, and has made an initial partial payment.

Because plaintiff is a prisoner, I am required by the 1996 Prison Litigation Reform Act to screen his complaint and dismiss any portion that is legally frivolous, malicious, fails 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. § 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). After reviewing the complaint, I conclude that plaintiff may proceed on his claim that defendants Raemisch, Thurmer and Ankarlo provided him inadequate mental health care in violation of the Eighth Amendment. However, I will stay service of the complaint and allow plaintiff to file a supplement with more information regarding whether he is asserting a claim that the conditions of confinement at the Waupun Correctional Institution exacerbated his mental illness and amounted to cruel and unusual punishment under the Eighth Amendment.

In his complaint, plaintiff alleges the following facts.

ALLEGATIONS OF FACT

Plaintiff Matthew Stechauner is a mentally ill prisoner at the Waupun Correctional Institution in Waupun, Wisconsin. Before he was incarcerated, plaintiff had had diagnoses of conduct disorder, mood disorder, depressive disorder, dissociative disorder, learning disorder, mild mental retardation, emotional disorder and blackout disorder. Since arriving at the Waupun Correctional institution, he has received a diagnosis of post traumatic stress disorder, polysubstance abuse, antisocial personality disorder, attention deficit hyperactivity disorder and borderline intellectual functioning. He has attempted suicide many times since being incarcerated.

Defendant Rick Raemisch is Secretary of the Wisconsin Department of Corrections. Defendant Michael Thurmer is the warden at the Waupun Correctional Institution and defendant Gary Ankarlo is the psychological supervisor there.

No evaluation or screening is performed to detect and monitor prisoners with mental illness at the Waupun Correctional Institution. Psychologists do not conduct rounds to check on mentally ill inmates, and the only time plaintiff sees a psychologist is when he is on observation or when he writes a request. Sometimes it takes numerous written requests to be seen because there is inadequate staffing in the psychological services unit. Since arriving at the Waupun Correctional Institution, plaintiff has spent significant periods of time without monitoring or contact with a psychologist.

In July 2008, plaintiff was placed in the health and segregation complex at the Waupun Correctional Institution. The complex has "harsh" conditions, and plaintiff has asked to be transferred somewhere else. Defendant Ankarlo has not responded to plaintiff's requests. On nine occasions, plaintiff has hurt himself while in the complex and has received no treatment.

On March 11, 2009, plaintiff cut his leg with a piece of plastic and attempted to hang himself with a bed sheet. He was placed in observation, where he banged his head against the wall until he suffered a concussion and cut his head. He was seen by the health services unit on that day, but not by the psychological services unit. On March 12, defendant

Ankarlo and another staff member made a report of the incident, noting that plaintiff reported hearing voices urging him to harm himself, had seen flashbacks of his father's death and felt like as if walls were closing in. On March 13, Ankarlo released plaintiff from observation.

On April 15, 2009, plaintiff attempted to hang himself with a bed sheet again and suffered injuries to his neck. He was placed in observation, where he banged his head against the wall until he suffered a concussion. On April 16, defendant Ankarlo and another staff member made a report of the incident, noting that plaintiff was hearing voices. On April 19, Ankarlo released plaintiff from observation. On April 20, plaintiff attempted to hang himself again, He was placed in observation overnight, where he cut his wrist with a screw. On April 21, defendant Ankarlo and another staff member saw plaintiff and noted that he had suicidal feelings. They placed plaintiff on sharps, linen and mattress restrictions. On April 22, Ankarlo and another staff member released plaintiff from observation.

On May 14, 2009, plaintiff cut his arm and leg and banged his head against his cell. He was placed in observation, where he continued to bang his head, causing injuries to his head. He was seen by health services unit staff. Defendant Ankarlo and another psychological services staff member talked to plaintiff about his thoughts of self-harm, but plaintiff continued to harm himself throughout the day. On May 15, 2009, defendant Ankarlo and another staff member released plaintiff from observation.

On June 12, 2009, plaintiff overdosed on pills and began throwing up blood. On June 14, the psychological services staff gave plaintiff socks, which he used to hang himself. On June 16, defendant Ankarlo and a staff member placed plaintiff in observation for a couple of hours, but then released him from observation the same day.

On August 12, 2009, plaintiff was in observation for several hours, banging his head. On August 14, defendant Ankarlo and a staff member released plaintiff from observation.

On September 14, 2009, plaintiff made a two-inch cut on his leg with a staple. On September 15, defendant Ankarlo and another staff member released plaintiff from observation.

Plaintiff has contacted defendants Raemisch, Thurmer and Ankarlo regarding his mental health condition, thoughts of self-harm and need for treatment, but defendants have provided no help to plaintiff.

DISCUSSION

Plaintiff contends that defendants violated his rights under the Eighth Amendment by failing to provide him adequate mental health treatment. A prisoner can state an Eighth Amendment claim by alleging facts sufficient to allow a plausible inference that the defendants disregarded a substantial risk of self-harm, which means that (1) defendants knew of a “substantial risk” that plaintiff would harm himself; and (2) disregarded that risk by

failing to take reasonable measures to abate it. Farmer v. Brennan, 511 U.S. 825, 847 (1994); see also Cavalieri v. Shepard, 321 F.3d 616, 622-23 (7th Cir. 2003) (prison officials have duty to protect prisoners from harming themselves as result of mental illness). Alternatively, a prisoner can state an Eighth Amendment claim by alleging facts that allow an inference that the defendants acted in deliberate indifference to a “serious medical need” of the prisoner’s. Estelle v. Gamble, 429 U.S. 97, 104-06 (1976). A serious mental illness is considered a “serious medical need.” Sanville v. McCaughtry, 266 F.3d 724, 734 (7th Cir. 2001) (citation omitted).

Plaintiff alleges that mental health resources and treatment at the Waupun Correctional Institution are inadequate and that when he becomes suicidal or has thoughts of self-harm, prison officials do not take reasonable measures to stop him from harming himself. On several occasions, plaintiff has harmed himself and told defendants that he was having thoughts of self-harm. The only care plaintiff was received was after he harmed himself and was placed on observation, and that care was brief and ineffective.

These allegations are sufficient to state an Eighth Amendment claim under either standard. It is plausible to infer that defendants each knew that plaintiff had serious mental health problems and was at risk of self-harm, but failed to provide him treatment that would address the mental illness or minimize the risk of self-harm. Although the allegations suggest that defendant Ankarlo provided some treatment to plaintiff by placing him in observation,

it is plausible to infer at this stage that Ankarlo should have known that the treatment was ineffective and insufficient to protect plaintiff. In addition, although defendants Thurmer and Raemisch may not be responsible directly for mental health care provided to inmates, plaintiff's allegations suggest that the lack of mental health care at the Waupun Correctional Institution and in the health and segregation complex in particular was a systemic problem over which Thurmer and Raemisch may have authority to remedy.

Plaintiff should be aware that at summary judgment or trial, he will have to be ready to show the court specific evidence that defendants were aware that he was at a serious risk of self-harm or was seriously mentally ill and, to the extent defendant Ankarlo made decisions about plaintiff's treatment, that his decisions were "so blatantly inappropriate as to evidence intentional mistreatment likely to seriously aggravate the prisoner's condition." Snipes v. DeTella, 95 F.3d 586, 592 (7th Cir. 1996) (internal quotations omitted). In other words, the treatment must be so far afield of accepted professional standards as to imply that it was not actually based on a medical judgment. Estate of Cole by Pardue v. Fromm, 94 F.3d 254, 262 (7th Cir. 1996).

Finally, it is not clear whether plaintiff is also raising a claim that his conditions of confinement in the health and segregation complex exacerbated his mental illness. Conditions may be so severe and restrictive that they exacerbate the symptoms that mentally ill inmates exhibit, resulting in cruel and unusual punishment and a violation of the Eighth

Amendment. Jones 'El v. Berg, 164 F. Supp. 2d 1096, 1116 (W.D. Wis. 2001). Plaintiff alleges that the conditions in the complex were “harsh” and implies that they were harmful to his mental state, but does not provide any details about the conditions other than alleging that they were similar to those alleged by the plaintiffs in Schumacher v. Frank, 08-cv-228-sl. This is not enough to state a claim for unconstitutional conditions of confinement. In addition, plaintiff does not say expressly whether he wishes to proceed on a claim regarding his conditions of confinement. I will provide plaintiff an opportunity to clarify whether he wishes to proceed on such a claim. If plaintiff does wish to proceed on a claim regarding conditions of confinement he should file a supplement to his complaint describing the particular conditions that he believes exacerbated his mental illness and stating which defendants he is suing for this claim. I will stay service of the complaint on defendants until January 21, 2011, to provide plaintiff an opportunity to file a supplement.

ORDER

IT IS ORDERED that

1. Plaintiff Matthew Stechauner is GRANTED leave to proceed on his claim that defendants Rick Raemisch, Michael Thurmer and Gary Ankarlo violated his rights under the Eighth Amendment by failing to provide him adequate mental health care.
2. Plaintiff may have until January 21, 2011, in which to supplement his complaint

with information regarding his claim that the conditions of confinement at the Waupun Correctional Institution were so severe that they exacerbated his mental illness and amounted to cruel and unusual punishment in violation of the Eighth Amendment.

3. Service of the complaint on defendants is STAYED pending receipt and screening of plaintiff's supplement to the complaint.

Entered this 12th day of January, 2011.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge