

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

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ROBERT G. LABELLE,

Plaintiff,

v.

DR. STEVE SINGER, and  
R.N. RENAE THOMPSON,

Defendants.  
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OPINION AND ORDER

11-cv-807-bbc

In this proposed civil action for injunctive relief under 42 U.S.C. § 1983, plaintiff Robert Labelle, a prisoner at the Rock County jail, contends that defendants Dr. Steve Singer and R.N. Renae Thompson have denied him access to his prescribed medication for heart disease and diabetes without a medical examination. I interpret plaintiff's complaint as a claim that defendants violated his rights under the Eighth Amendment to be free from cruel and unusual punishments by demonstrating deliberate indifference to his severe medical need. Estelle v. Gamble, 429 U.S. 97, 104 (1976).

Plaintiff is proceeding under the in forma pauperis statute, 28 U.S.C. § 1915, and the court has determined that plaintiff cannot pay the 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). Having reviewed the complaint, I conclude that plaintiff may proceed on his claim under the Eighth Amendment against defendants.

In his complaint, plaintiff alleges the following facts.

#### FACTS

Plaintiff Robert Labelle was booked into the Rock County jail on November 1, 2011, at which time "medical staff" informed plaintiff that he was not permitted to retain his medications. These medications were prescribed by plaintiff's personal physician ten years ago for "heart complications and diabetes." Defendant Dr. Steve Singer is a physician employed by the jail and defendant R.N. Renae Thompson is a nurse employed by the jail. Although plaintiff complained to the medical staff about his medications, he has not received a medical examination to determine whether the medications were necessary.

## OPINION

To state an Eighth Amendment medical care claim, a prisoner must allege facts from which it can be inferred that he had a “serious medical need” and that prison officials were “deliberately indifferent” to this need. Estelle v. Gamble, 429 U.S. 97, 104 (1976); Gutierrez v. Peters, 111 F.3d 1364, 1369 (7th Cir. 1997). A medical need may be serious if it is life-threatening, carries risks of permanent serious impairment if left untreated, results in needless pain and suffering when treatment is withheld, Gutierrez, 111 F.3d at 1371-73, “significantly affects an individual’s daily activities,” Chance v. Armstrong, 143 F.3d 698, 702 (2d Cir. 1998), causes pain, Cooper v. Casey, 97 F.3d 914, 916-17 (7th Cir. 1996), or otherwise subjects the prisoner to a substantial risk of serious harm, Farmer v. Brennan, 511 U.S. 825, 847 (1994). “Deliberate indifference” means that the officials were aware that the prisoner needed medical treatment, but disregarded the risk by failing to take reasonable measures. Forbes v. Edgar, 112 F.3d 262, 266 (7th Cir. 1997). Thus, plaintiff’s claim has three elements:

- (1) Did plaintiff have a medical need that required treatment?
- (2) Did defendants know that plaintiff needed treatment?
- (3) Despite defendants’ awareness of the need, did defendants fail to take reasonable measures to provide the necessary treatment?

Although plaintiff’s complaint is sparse, he alleges that he has a heart condition and

diabetes and that his personal physician prescribed medication for those conditions. It is reasonable to infer that failing to treat such conditions subjects plaintiff to substantial risk of harm. Plaintiff further alleges that he complained to defendants about changing his medication, which implies defendants knew about his medical need. Finally, at this early stage of the litigation, plaintiff's allegation that defendants changed his prescription medications without performing a medical examination is sufficient to state a claim that they failed to take reasonable measures to provide necessary treatment.

I note that plaintiff's request for relief was ambiguous. I have interpreted the complaint as requesting an injunction (a court order) that would require the Rock County jail to permit plaintiff to receive the medications prescribed by his personal physician. If plaintiff wants additional forms of relief, he will need to amend his complaint.

#### ORDER

IT IS ORDERED that:

1. Plaintiff Robert Labelle is GRANTED leave to proceed in forma pauperis on his claim that defendants Steve Singer and Renae Thompson violated his right under the Eighth Amendment.
2. Copies of plaintiff's complaint and this order are being forwarded to the United States Marshal for service on defendants.

3. For the time being, plaintiff must send defendants a copy of every paper or document that he files with the court. Once plaintiff has learned what lawyer will be representing defendants, he should serve the lawyer directly rather than defendants. The court will disregard any documents submitted by plaintiff unless plaintiff shows on the court's copy that he has sent a copy to defendants or to defendants' attorney.

4. Plaintiff should keep a copy of all documents for his own files. If plaintiff does not have access to a photocopy machine, he may send out identical handwritten or typed copies of his documents.

5. Plaintiff is obligated to pay the unpaid balance of his filing fee in monthly payments as described in 28 U.S.C. § 1915(b)(2). This court will notify the officials at the Rock County jail of that institution's obligation to deduct payments until the filing fee has been paid in full.

Entered this 13th day of January, 2012.

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