

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

JERRY SAENZ,

Plaintiff,

v.

JANEL NICKEL, NANCY WHITE,
LON R. BECHER, KAREN ANDERSON,
DAWN M. LAURENT, JESSICA HARRIS,
NICHOLAS BUHR, SONNETTE M. CALDWELL-BARR
and DALIA SULIENE,

Defendants.

ORDER

13-cv-697-bbc

Prisoner Jerry Saenz, who is represented by counsel, is proceeding on two claims: (1) defendants Janel Nickel, Nancy White, Lon Becher, Karen Anderson, Dawn Laurent, Jessica Harris, Nicholas Buhr, and Dalia Suliene knew of a substantial risk that plaintiff would seriously harm himself in May 2012 by overdosing on “non-controlled” medications, but they failed to take reasonable steps to prevent the harm from occurring; and (2) defendants Nicholas Buhr, Jessica Harris, Dawn Laurent and Sonnette Caldwell-Barr subjected plaintiff to unconstitutional conditions of confinement in June 2012 after he returned from the hospital. Now before the court is plaintiff’s unopposed motion to file a second amended

complaint. Dkt. #47. A proposed amended complaint accompanies the motion. Dkt. #49.

In his motion, plaintiff says that he is making three changes in his amended complaint: (1) he is dropping his second claim regarding conditions of confinement; (2) he is dropping all claims against defendants Nickel, Anderson, Becher, Harris and White; and (3) he is adding Patrick Kumke, a psychological associate, to the first claim. Plaintiff alleges that Kumke was involved in treating plaintiff and knew of the risk that plaintiff would abuse his medications, but failed to take reasonable steps to prevent plaintiff from harming himself. Dkt. #49, ¶¶ 11, 25, 38-40, 44.

Plaintiff's changes are relatively minor and he is not seeking any changes to the schedule, so I see no harm in allowing plaintiff to amend his complaint. Further, plaintiff's new allegations are sufficient to state a claim against Kumke under the Eighth Amendment. Minix v. Canarecci, 597 F.3d 824, 833 (7th Cir. 2010) (prison officials may be held liable under Eighth Amendment if official disregarded substantial risk of serious self harm). Accordingly, I am granting plaintiff's motion.

ORDER

IT IS ORDERED that

1. Plaintiff Jerry Saenz's motion for leave to file a second amended complaint, dkt. #47, is GRANTED.

2. The complaint is DISMISSED as to defendants Janel Nickel, Karen Anderson, Lon Becher, Jessica Harris and Nancy White and as to plaintiff's claim that defendants subjected plaintiff to unconstitutional conditions of confinement in June 2012 after he returned from the hospital.

3. Plaintiff is GRANTED leave to proceed on a claim that Patrick Kumke knew of a substantial risk that plaintiff would seriously harm himself in May 2012 by overdosing on "non-controlled" medications, but Kumke failed to take reasonable steps to prevent the harm from occurring,

Entered this 16th day of July, 2015.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge