

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

COREY R. PITTMAN,

Plaintiff,

v.

OPINION & ORDER

15-cv-21-jdp

GARY NAPRALLA, DUSTIN KINGSLAND,
PALMER PAGE, ADAM JORDAN,
MICHAEL MEISNER, DR. SEABUL, and
UNIT MANAGER ASHWORTH,

Defendants.¹

Pro se prisoner Corey Pittman has filed a proposed complaint under 42 U.S.C. § 1983 in which he alleges that defendants violated his Eighth Amendment right against cruel and unusual punishment. According to plaintiff, some of the defendants failed to promptly alert medical personnel after plaintiff fell in the shower and injured himself. Other defendants failed to provide plaintiff with adequate medical care for the injuries that he suffered in these accidents.

Plaintiff has made an initial partial payment of the filing fee under 28 U.S.C. § 1915(b)(1). The next step in this case is for the court to screen plaintiff's complaint and dismiss any portion that is legally frivolous, malicious, fails to state a claim upon which relief may be granted, or asks for monetary damages from a defendant who by law cannot be sued for money damages. 28 U.S.C. §§ 1915, 1915A. In screening any *pro se* litigant's complaint, I must read the allegations of the complaint generously. *Haines v. Kerner*, 404 U.S. 519, 521

¹ Plaintiff names "Dr. _____" and "Unit Manager _____" as defendants. Dkt. 7. But the factual narrative in plaintiff's complaint alleges wrongful conduct on the part of Dr. Seabul and unit manager Ashworth. I therefore infer that plaintiff intended to name these individuals as defendants, and I have updated the caption accordingly.

(1972). After reviewing the complaint with this principle in mind, I conclude that plaintiff has stated an Eighth Amendment claim against several of the named defendants for deliberate indifference to his serious medical needs. I will therefore grant plaintiff leave to proceed against these defendants. But I will dismiss the defendants for whom plaintiff has not alleged any personal involvement.

ALLEGATIONS OF FACT

Plaintiff is an inmate at the Columbia Correctional Institution (CCI), located in Portage, Wisconsin. Plaintiff alleges that, on various occasions, defendants failed to adequately respond to injuries that he suffered at CCI. Defendants are correctional officers and administrators at CCI, as well as a physician who treated plaintiff's injuries.

On December 23, 2013, plaintiff fell in the shower. Injured and in pain, plaintiff called out to defendant Dustin Kingsland, asking him to summon medical staff. But Kingsland ignored him. The next day, plaintiff again fell while in the shower. This time, it was defendant Palmer Page² who did not immediately respond to plaintiff's request for help. Defendant Adam Jordan was also aware of plaintiff's injury because he noticed that plaintiff was on the floor, but he did not help plaintiff.

Plaintiff was seen by medical personnel after his second fall, and he received a "bottom bunk restriction." Dkt. 7, at 5. But when plaintiff returned to his housing unit, Kingsland forced plaintiff to sleep on a top bunk. As plaintiff tried to climb out of bed that evening, he fell a third time. Plaintiff hit his head and aggravated the injuries that he suffered

² Plaintiff's complaint refers to "Palmer Page" and to "Page Palmer." *See generally* Dkt. 7. Despite the inconsistency, I understand these references to be to the same person. Plaintiff's caption uses "Palmer Page," and so this is the name that I will use.

after falling in the shower. Another inmate alerted CCI staff, and plaintiff went to the hospital. Plaintiff received medication, but he alleges that it caused him ulcers and did not alleviate his pain. Plaintiff informed defendant Dr. Seabul that the medication was not working and that he was still in pain. Dr. Seabul did not alter plaintiff's treatment or otherwise try to alleviate his pain.

In January 2014, plaintiff received medical authorization to have an extra pillow. (Plaintiff does not explain whether this authorization was related to his falls, but because I must construe his complaint liberally, I assume that this event is connected to the other allegations in plaintiff's complaint.) But when plaintiff presented his medical authorization to defendant Gary Napralla and requested another pillow, Napralla denied the request.

ANALYSIS

I understand plaintiff to allege that defendants violated his Eighth Amendment right against cruel and unusual punishment by failing to adequately prevent, respond to, or treat his falls in December 2013. I conclude that plaintiff's complaint states a claim against defendants Napralla, Kingsland, Page, Jordan, and Seabul, and I will therefore grant plaintiff leave to proceed against these defendants. But plaintiff has not alleged that defendants Michael Meisner, the warden of CCI, or unit manager Ashworth were personally involved in the events described in the complaint. I will therefore deny plaintiff leave to proceed against these defendants and dismiss them from this case.

To succeed on an Eighth Amendment claim for inadequate medical treatment, plaintiff must demonstrate that defendants "display[ed] deliberate indifference to [his] serious medical needs." *Greeno v. Daley*, 414 F.3d 645, 652 (7th Cir. 2005) (internal citations

and quotation marks omitted). “A claim of deliberate indifference to a serious medical need contains both an objective and a subjective component.” *Id.* at 653. “In the medical care context, the objective element requires that the inmate’s medical need be sufficiently serious.” *Gutierrez v. Peters*, 111 F.3d 1364, 1369 (7th Cir. 1997). The Seventh Circuit defines “[a] serious medical condition [a]s one that has been diagnosed by a physician as mandating treatment or one that is so obvious that even a lay person would perceive the need for a doctor’s attention.” *Greeno*, 414 F.3d at 653. Here, plaintiff’s complaint alleges that he fell in the shower and from his bunk. A lay person would understand the potential severity of such an accident, particularly if the injured person is calling for medical attention. Although plaintiff does not describe the specific injuries that he suffered, he explains that his resulting pain kept him from participating in recreation and that he even skipped meals. Plaintiff has therefore alleged physical injuries that satisfy the objective component of an Eighth Amendment claim.

For “the subjective component, a prisoner must demonstrate that prison officials acted with a sufficiently culpable state of mind. . . . [I]t is enough to show that the defendants knew of a substantial risk of harm to the inmate and disregarded the risk.” *Id.* (internal citations and quotation marks omitted). Here, plaintiff alleges that he directly asked Kingsland and Palmer for help after falling in the shower and that they either ignored him or did not promptly respond. Plaintiff also alleges that Jordan saw him lying on the shower floor after falling, but that he did not help plaintiff. Despite receiving a bottom bunk restriction, plaintiff alleges that Kingsland forced him to sleep on a top bunk. As for Dr. Seabul, plaintiff alleges that he ignored complaints about the effectiveness of plaintiff’s medication. Finally, plaintiff alleges that Napralla flatly refused to provide plaintiff with an extra pillow, despite

plaintiff presenting him with a medical authorization for one. Accepting these allegations as true for purposes of screening the complaint, I conclude that plaintiff has adequately alleged that these defendants were deliberately indifferent to his medical needs.

But plaintiff cannot proceed against Meisner or Ashworth. I understand plaintiff's complaint to allege that these defendants are liable only because they supervise other correctional officers who were involved in this case or because they are generally in charge of operations at CCI and in plaintiff's unit. But plaintiff cannot sue Meisner or Ashworth "merely for their supervisory role of others. An individual cannot be held liable in a § 1983 action unless he caused or participated in the alleged constitutional deprivation." *Zimmerman v. Tribble*, 226 F.3d 568, 574 (7th Cir. 2000). Plaintiff does not allege that Meisner or Ashworth personally failed to respond to his injuries, nor does the complaint suggest that either administrator was even aware of plaintiff's falls and resulting medical treatment. I will therefore deny plaintiff leave to proceed against these defendants, and I will dismiss them from this case.

ORDER

IT IS ORDERED that:

1. Plaintiff Corey Pittman is GRANTED leave to proceed on his Eighth Amendment claims of deliberate indifference against defendants Gary Napralla, Dustin Kingsland, Palmer Page, Adam Jordan, and Dr. Seabul.
2. Plaintiff is DENIED leave to proceed against defendants Michael Meisner and unit manager Ashworth, who are DISMISSED from this case.
3. Pursuant to an informal service agreement between the Wisconsin Department of Justice and this court, copies of plaintiff's complaint and this order are being sent today to the Attorney General for service on defendants. Plaintiff should not attempt to serve defendants on his own at this time. Under the agreement, the Department of Justice will have 40 days from the date of the Notice of Electronic

Filing of this order to answer or otherwise plead to plaintiff's complaint if it accepts service for defendants.

4. For the time being, plaintiff must send defendants a copy of every paper or document that he files with the court. Once plaintiff learns the name of the lawyer who will be representing defendants, he should serve the lawyer directly rather than defendants. The court will disregard documents plaintiff submits that do not show on the court's copy that he has sent a copy to defendants or to defendants' attorney.
5. Plaintiff should keep a copy of all documents for his own files. If he is unable to use a photocopy machine, he may send out identical handwritten or typed copies of his documents.
6. 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). The clerk of court is directed to send a letter to the warden of plaintiff's institution informing the warden of the obligation under *Lucien v. DeTella*, 141 F.3d 773 (7th Cir. 1998), to deduct payments from plaintiff's trust fund account until the filing fee has been paid in full.

Entered September 14, 2015.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge