

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

JERRY MEANS,

Plaintiff,

ORDER

v.

02-C-0695-C

DR. C. CULLEN, Psychologist, and
DR. TWILA HAGAN, Head Psychologist,

Defendants.

This is a proposed civil action for monetary and declaratory relief brought pursuant to 42 U.S.C. § 1983, in which plaintiff Jerry Means, an inmate at the Wisconsin Secure Program Facility in Boscobel, Wisconsin, alleges that defendants C. Cullen and Twila Hagan were deliberately indifferent to his serious mental health care needs between April 11 and May 19, 2002.

Presently before the court is defendants' motion to dismiss defendant Twila Hagan for failure to exhaust his administrative remedies as this defendant. (Although defendants argued in their brief in support of summary judgment that plaintiff had failed to exhaust his administrative remedies as to defendant Hagan, the court construed this portion of

defendants' brief as having been filed in support of a motion to dismiss and ordered a response from plaintiff.)

In plaintiff's response, he alleged that on July 21, 2002, he filed an inmate complaint complaining that defendant Hagan did not take his mental health care needs seriously. John Ray, custodian of inmate appeal records at the prison, avers that plaintiff never appealed any complaints concerning defendant Hagan. Plaintiff has submitted copies of several inmate complaints and complaint examiner reports revealing that he was displeased with defendant Cullen's behavior specifically and prison conditions generally. It is true that some of the complaint examiner's reports concerning defendant Cullen mention defendant Hagan, but in those reports her conduct is not the subject of either plaintiff's complaint or the examiner's inquiry. See, e.g., Plt.'s Reply, dkt. #40, SMCI-2002-26626 ("complainant was contacted by Dr. Hagan on 8/24/02 and refused to be seen" and "[plaintiff's] requests [to Dr. Cullen] have been forwarded to Dr. Hagan"). Because plaintiff failed to exhaust his administrative remedies as to defendant Hagan, defendants' motion to dismiss will be granted.

ORDER

IT IS ORDERED that defendants' motion to dismiss defendant Twila Hagan is

GRANTED.

Entered this 14th day of August, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge