

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

CHARLES HILL,

Plaintiff,

v.

DR. CHARLES HUIBREGTSE, LAURIE DOEHLING,
NANCY HAHNISCH, BONNIE ZUELKE,
STEPHAN RANDALL, and SHARON MOERCHEN,

Defendants.

OPINION AND ORDER

10-cv-806-wmc

Plaintiff Charles Hill alleges that defendants, all healthcare providers at Wisconsin's Redgranite Correctional Institution, subjected him to cruel and unusual punishment by failing to treat his chronic pain. Defendants have now filed a motion for summary judgment, seeking to dismiss the suit for failure to exhaust administrative remedies, as required by the Prison Litigation Reform Act of 1995, Pub. L. No. 104-134, 110 Stat. 1321 ("PLRA") (42 U.S.C § 1997e(a)). For reasons articulated below, the court will grant this motion and deny as moot several other pending motions filed by plaintiff.

PRELIMINARY MATTERS

After defendants filed their motion for summary judgment, plaintiff filed a "motion for an order to modify plaintiff's statement of claim back to its original statement," asserting that during the screening process the court modified or misinterpreted his complaint. (Dkt. #35.) The court's screening order determined that

plaintiff had stated an Eighth Amendment claim arising out of defendants' alleged failure to treat his chronic pain. Now, plaintiff argues that "deliberate indifference to his chronic pain . . . [was] only one of . . . [the] many medical issues and needs" articulated in his complaint. Whether or not this was plaintiff's *intent*, an objective reading of the initial complaint reveals that failure to treat chronic pain is the only claim that can plausibly be inferred from the allegations. Indeed, plaintiff filed an amended complaint after the court's screening, which summarizes his case as follows: "The plaintiff . . . has filed a civil action in which [he] . . . alleges that defendants . . . violated his Eighth Amendment rights by acting with deliberate indifference to his chronic pain." (Dkt. #22, at 1.)

Even construing plaintiff's motion generously as a request to add these new claims by amendment, it is untimely. Having been filed *after* defendants moved for summary judgment, an amendment now would be both unreasonably prejudicial to defendants and further delay the resolution of this lawsuit. Should plaintiff wish to the pursue additional claims, he is free to file another lawsuit, but will need to explain exactly what conduct forms the basis for his claims.

UNDISPUTED FACTS¹

Plaintiff Charles Hill is an inmate at Redgranite Correctional Institution (RGCI). Defendant Laurie Doehling in the Health Services Unit Manager at RGCI. Defendants

¹ These facts are drawn from undisputed portions of plaintiff's complaint, as well as affidavits and exhibits filed by both sides in support of their briefs on summary judgment. (*See* Pretrial Conference Order, dkt. #16, at 4-5.)

Nancy Hahnisch, Bonnie Zuelke, Stephan Randall and Sharon Moerchen are nurses, and defendant Charles Huibregtse is a physician at RGCI.

In 2005, Hill was seriously injured in a car accident, resulting in skeletal, back, sinus and arm injuries. Since that time he has suffered chronic pain. In 2009, Hill reentered the prison system and arrived at RGCI. He alleges that the defendants “downplay his injuries” and do not respond to his requests for medical care. (Compl., dkt. #1, ¶¶ 9A-B5).

Since his arrival at RGCI, Hill has made seven administrative complaints via the Inmate Complaint Review System (ICRS) about medical care he has received:

- On December 30, 2009, Hill filed complaint RGCI-2009-28713, claiming he was denied medical treatment because he was not able to weigh himself.
- On March 22, 2010, Hill filed complaint RGCI-2010-6256 related to an ongoing sinus infection/swollen face dating back to July 23, 2009.
- On April 20, 2010, Hill filed complaint RGCI-2010-8441, complaining about the absence of a breathing machine to ease his sleep apnea.
- On May 10, 2010, Hill filed complaint RGCI-2010-9928 regarding treatment for a rash/bumps on his head.
- On May 21, 2010, Hill filed complaint RGCI-2010-10788 regarding chronic congestion.
- On September 17, 2010, Hill filed complaint RGCI-2010-19369 regarding “pusy itchy bumps” on his body.

- On April 11, 2011, Hill filed complaint RGCI-2011-7742 regarding a black tongue and swollen left side of his face.

Some of the above-listed complaints were dismissed on their merits during the administrative complaint process, while others were dismissed as not timely filed.

OPINION

I. Motion for Summary Judgment

Summary judgment is appropriate if there are no disputed issues of material fact and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). In deciding a motion for summary judgment, the court must view all facts and draw all inferences in the light most favorable to the non-moving party. *Schuster v. Lucent Tech., Inc.*, 327 F.3d 569, 573 (7th Cir. 2003). Even so, the nonmoving party may not simply rest on the allegations in its complaint; rather, that party must come forward with specific facts that would support a jury's verdict in its favor. *Van Diest Supply Co. v. Shelby Cnty State Bank*, 425 F.3d 437, 439 (7th Cir. 2005).

The PLRA prohibits prisoners from filing § 1983 lawsuits related to “prison conditions” until available administrative remedies are exhausted. 41 U.S.C. § 1997e(a). Congress defined “prison conditions” broadly to include conditions of confinement, as well as issues of prisoner treatment. 18 U.S.C. § 3626(g)(2). *See also Porter v. Nussle*, 534 U.S. 516, 532 (2002). The duty to exhaust applies regardless of the relief offered through administrative procedures -- that is, a prisoner seeking monetary relief in federal

court must still exhaust state administrative remedies, even if administrative remedies do not provide for damages. *Booth v. Churner*, 532 U.S. 731, 740-41 (2001).

While plaintiff has filed numerous inmate complaints, none relate to treatment of chronic pain, which as just explained above is the only issue pled and allowed to proceed in the instant lawsuit. Thus, while plaintiff's brief in opposition to defendants' motion for summary judgment emphasizes that he has exhausted his administrative options with respect to a number of his inmate complaints, and was denied the opportunity to fully exhaust Inmate Complaint RGCI-2010-9928, this does not meet his obligation to exhaust the particular claim at issue here before proceeding in court. Summary judgment in favor of defendants is, therefore, appropriate in the absence of any evidence demonstrating that plaintiff has exhausted administrative remedies with respect to his claim of failure to treat chronic pain.

II. Other Motions

Plaintiff has filed several other motions in anticipation of continued litigation, including a "motion to appoint counsel" (dkt. #32), a "motion for an order to stop defendants' unlawful interference with plaintiff's legal and all other correspondence" (dkt. #39), a "motion to admit new evidence" (dkt. #41), and a "motion for temporary restraining order and preliminary injunction" (dkt. #46). Because plaintiff's claim cannot proceed, these motions will be denied as moot.

ORDER

IT IS ORDERED that:

- 1) Defendants' motion for summary judgment (dkt. #23) is GRANTED;
- 2) Plaintiff's "motion to appoint counsel" (dkt. #32), "motion for an order to modify plaintiff's statement of claim back to its original statement" (dkt. #35), "motion for an order to stop defendants' unlawful interference with plaintiff's legal and all other correspondence" (dkt. #39), "motion to admit new evidence" (dkt. #41), and "motion for temporary restraining order and preliminary injunction" (dkt. #46) are all DENIED; and
- 3) The clerk of court is ordered to close this case.

Entered this 14th day of March, 2013.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge