

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

---

GLENN L. DIXON,

Plaintiff,

v.

CAPTAIN T. CASIANA, *et al.*,

Defendants.

ORDER

12-cv-611-wmc

---

State inmate Glenn L. Dixon has filed a complaint under 42 U.S.C. § 1983, alleging that the defendants used excessive force against him in violation of his civil rights. Dixon requests leave to proceed *in forma pauperis* and he has paid an initial partial filing fee in compliance with 28 U.S.C. § 1915(b)(1). Because Dixon is incarcerated, the Prison Litigation Reform Act of 1996 (the “PLRA”) requires this court to screen the complaint and dismiss any portion that is 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 them. *See* 28 U.S.C. § 1915A.

In addressing any pro se litigant’s complaint, the court must read the allegations generously. *See Haines v. Kerner*, 404 U.S. 519, 521 (1972). In addition to his original complaint, Dixon filed a supplemental version of his claims at the court’s request to provide additional details about the defendants.

Dixon alleges that he was placed in handcuffs and leg irons on September 8, 2011, following a physical altercation with another inmate at the Columbia Correctional Institution in Portage. Dixon alleges that four of the defendants (Officer J. Caudillo, Officer T. Kophfamer, Officer K. Pitzen, and Officer M. Rataczak) used unnecessary

and excessive force by dropping him to the floor, smothering his face so that he could not breathe, and dragging him from the scene of the altercation. Dixon claims that the handcuffs and leg irons cut into his arms and legs, leaving permanent scars. Dixon asserts that these officers inflicted severe pain and that defendant Captain T. Casiana failed to intervene on his behalf or protect him from harm. Dixon seeks compensatory and punitive damages in the amount of \$50,000 from each defendant.

Accepting all well-pleaded allegations as true, as required at the pleading stage of the proceeding, Dixon contends that defendants Caudillo, Kophfhamer, Pitzen, and Rataczak used excessive force against him in violation of the Eighth Amendment, which prohibits conditions of confinement that “involve the wanton and unnecessary infliction of pain.” *Rhodes v. Chapman*, 452 U.S. 337, 347 (1981). Because Dixon’s allegations appear sufficient to articulate a cause of action at this stage of the proceeding, the court will allow him to proceed with an excessive-force claim against these officers. Dixon should be aware, however, that to be successful on this claim he will have to prove that defendants used force “maliciously and sadistically for the very purpose of causing harm” instead of “in a good-faith effort to maintain or restore discipline.” *Hudson v. McMillian*, 503 U.S. 1, 6 (1992).

It is less clear whether defendant Casiana was present during the incident or had the requisite personal involvement in the alleged incident. Guided by the lenient standard that applies to *pro se* pleadings, the court will also allow Dixon to proceed with his claim that Casiana witnessed the use of force but failed to intervene. Going forward, Dixon must show that Casiana knew that excessive force was being used during the

incident in question and had a realistic opportunity to intervene to prevent the violation from occurring. *Fillmore v. Page*, 358 F.3d 496, 505-06 (7th Cir. 2004); *Yang v. Hardin*, 37 F.3d 282, 285 (7th Cir. 1994).

#### ORDER

IT IS ORDERED that:

- 1) Plaintiff Glenn L. Dixon's request for leave to proceed with an Eighth Amendment excessive-force claim against the defendants (Captain T. Casiana, Officer J. Caudillo, Officer T. Kophfhamer, Officer K. Pitzen, and Officer M. Rataczak) is GRANTED. Leave to proceed with any other claim is DENIED.
- 2) For the time being, plaintiff must send the defendants a copy of every paper, pleading or document he files with the court. Once plaintiff has learned what lawyer will be representing the defendants, he must serve the lawyer directly rather than the defendant. The court will disregard any documents submitted by plaintiff unless plaintiff shows on the court's copy that he has sent a copy to the defendants or to their attorney.
- 3) 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.
- 4) 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 the defendant. Under that 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 the defendant.

Entered this 9th day of May, 2013.

BY THE COURT:

/s/

---

WILLIAM M. CONLEY  
District Judge