

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

WILLIAM JARNIGAN,

OPINION & ORDER

Plaintiff,

v.

14-cv-416-jdp

ROBERT D. SPODEN, DR. BUTLER, and
NURSE BRANDY,

Defendants.

Pro se plaintiff William Jarnigan, a Rock County Jail inmate, has filed a motion to amend his complaint. Dkt. 16. I previously reviewed plaintiff's initial complaint, Dkt. 1, and determined that: (1) plaintiff stated an Eighth Amendment deliberate indifference claim, pursuant to 42 U.S.C. § 1983, against two Doe defendants, a doctor and a nurse; and (2) plaintiff failed to state a claim against Rock County Sheriff Robert D. Spoden. I allowed defendant Spoden to remain in the case as a nominal defendant to allow plaintiff the opportunity to identify the Doe defendants by name. I warned plaintiff that I would dismiss defendant Spoden from this case after plaintiff named the Doe defendants, unless plaintiff amended his complaint to allege facts sufficient to show that defendant Spoden personally caused or participated in the alleged constitutional deprivations. Dkt. 11, at 3.

Plaintiff has not filed an amended complaint. Rather, plaintiff has filed a motion to amend his initial complaint, in which he attempts to address the issues discussed above. Dkt. 16. He has also filed two letters with the court. Dkt. 19 and Dkt. 20. Now that plaintiff has identified the Doe defendants, I will allow him to proceed with his Eighth Amendment deliberate indifference claim as alleged against them. I will dismiss plaintiff's case as alleged

against defendant Spoden but allow him to remain in the case as a nominal defendant until defendants Butler and Brandy have been served.

A. Doe defendants

Plaintiff's motion to amend his complaint provides partial names for the Doe defendants he named in his initial complaint: Dr. Butler and Nurse Brandy. Dkt. 16. I have already determined that plaintiff's initial complaint stated a claim against the Doe defendants. Accordingly, plaintiff may proceed with his Eighth Amendment deliberate indifference claim as alleged in his initial complaint against Dr. Butler and Nurse Brandy, and I will direct the United States Marshal to serve these defendants.

B. Defendant Spoden

Plaintiff's motion to amend his complaint also states that “[i]t is widely known throughout Rock County Jail that Robert Spoden never responds to any request no matter the severity” and that Spoden is responsible for all goings-on at the jail. Dkt. 16. However, plaintiff has still not stated a claim against defendant Spoden.

As I discussed in my previous order, the Eighth Amendment prohibits prison officials from acting with deliberate indifference toward prisoners' serious medical needs. *Estelle v. Gamble*, 429 U.S. 97, 103-04 (1976). For a defendant to be deliberately indifferent to a plaintiff's serious medical need, he or she must know of the need and disregard it. *Farmer v. Brennan*, 511 U.S. 825, 834 (1994). As I forewarned, I will not allow plaintiff to proceed against defendant Spoden because plaintiff has not alleged Spoden's personal involvement in any wrongdoing. Plaintiff has not offered any additional facts in his motion to amend (or subsequent letters, discussed below) that indicate that Spoden was aware of a serious medical condition and deliberately disregarded it. Plaintiff has not pled facts sufficient to state an

Eighth Amendment deliberate indifference claim against defendant Spoden in his individual capacity under Rule 8.

Plaintiff also fails to state a claim against Spoden in his supervisory capacity. With respect to supervisory officials, plaintiff does not need to allege direct participation in a deprivation of constitutional rights, *Miller v. Smith*, 220 F.3d 491, 495 (7th Cir. 2000), but “there must be a showing that the official knowingly, willfully, or at least recklessly caused the alleged deprivation by his action or failure to act.” *Rascon v. Hardiman*, 803 F.2d 269, 273-74 (7th Cir. 1986); *see also Minix v. Canarecci*, 597 F.3d 824, 833-34 (7th Cir. 2010) (“To be personally liable under these circumstances, [a director of medical services] must have condoned or acquiesced in a subordinate’s unconstitutional treatment.”). Because plaintiff has not alleged facts sufficient to establish that defendant Spoden purposefully or recklessly deprived plaintiff of adequate medical care, plaintiff has failed to state an Eighth Amendment deliberate indifference claim against defendant Spoden based on his supervisory position.

That being said, for the time being, I will keep Spoden in the case as a nominal defendant until the United States Marshal has successfully served defendants Butler and Brandy.

C. Letters

After filing his motion to amend, plaintiff sent a letter to the court regarding conditions at the Rock County Jail. In that letter, plaintiff complains that he has remained in jail despite his “efforts to go through the state courts via sentencing modifications, requests for medical Huber, and a writ of Habeas corpus[.]” Dkt. 19, at 1. Plaintiff references the jail’s inadequate medical care and the inmates’ inability to obtain adequate treatment generally. I

received a second letter from plaintiff a short time later, reporting “continued violations” at the jail. Dkt. 20. In the second letter, plaintiff alleges that Nurse Brandi—plaintiff adopted a slight spelling change in Nurse Brandy’s name—prevented plaintiff from filling prescriptions with outside pharmacies. Plaintiff’s second letter also includes a list of “constitutional violations” that have occurred at the Rock County Jail, including but not limited to charging inmates to see a nurse, charging inmates steep phone rates, serving inmates undercooked food, and forcing inmates to shower in stalls that contain mold.

None of the generalized allegations in the letters gives rise to any independent claims for relief. Accordingly, I will not construe plaintiff’s letters as attempts to allege new or additional claims.

ORDER

IT IS ORDERED that:

1. Plaintiff William Jarnigan’s motion to amend his complaint, Dkt. 16, is GRANTED, and he may proceed with his Eighth Amendment deliberate indifference claim as alleged against the Doe defendants in his initial complaint, now identified as Dr. Butler and Nurse Brandy.
2. Plaintiff is DENIED leave to proceed with his Eighth Amendment claim against defendant Robert D. Spoden.
3. The clerk of court is directed to send copies of plaintiff’s complaint, his motion to amend the complaint, and this order to the United States Marshal for service on defendants Spoden, Butler, and Brandy. Plaintiff should not attempt to serve defendants at this time.
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. If plaintiff is transferred or released while this case is pending, it is his obligation to inform the court of his new address. If he fails to do this and defendants or the court are unable to locate him, his case may be dismissed for his failure to prosecute it.

Entered January 19, 2016.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge