

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

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TYRONE D. ARDS,

Plaintiff,

v.

TIMOTHY CASIANA, MIKE MORRISON,  
THEODORE ANDERSON, DAN NORGE,  
RAYMOND WOODS, RANDY SCHNEIDER,  
CORRECTIONAL OFFICER THOMPSON,  
CORRECTIONAL OFFICER STELLICK,  
LUCAS WEBER, DAVID MELBY, THEO,  
JOE REDA, and JANE/JOHN DOE NURSES 1-3,

Defendants.

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OPINION & ORDER

16-cv-341-jdp

Pro se prisoner Tyrone Ards is in the custody of the Wisconsin Department of Corrections (DOC), incarcerated at the Columbia Correctional Institution (CCI). Plaintiff filed a proposed complaint under 42 U.S.C. § 1983, alleging that prison officials violated his constitutional rights by depriving him of basic necessities, failing to adequately respond to his threats of suicide, and using excessive force against him. Dkt. 1. After screening the complaint, I concluded that plaintiff had failed to comply with Federal Rule of Civil Procedure 8 because he had not provided a short and plain statement of a claim. Dkt. 7. I therefore dismissed plaintiff's complaint but gave him an opportunity to amend it. *Id.*

Plaintiff has filed an amended complaint in response to my order. I must again screen the complaint and dismiss any portion that is legally frivolous, malicious, fails to state a claim upon which relief can 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, 520 (1972) (per curiam). After reviewing the amended complaint with this principle in mind, I conclude that plaintiff has stated Eighth Amendment claims against defendants Timothy Casiana, Theodore Anderson, Randy Schneider, Correctional Officer Thompson, Correctional Officer Stellick, Theo, Joe Reda, and Jane/John Doe Nurses 1-3. I will therefore grant plaintiff leave to proceed against these defendants. I will dismiss the other defendants against whom plaintiff does not allege any claims.

#### ALLEGATIONS OF FACT

Plaintiff is currently incarcerated at CCI, which is located in Portage, Wisconsin. Defendants are DOC employees who worked at CCI during the relevant events of this case.

On April 26, 2014, CCI staff placed plaintiff in clinical observation because he felt that he might harm himself. CCI staff checked on plaintiff every five minutes. During these checks, plaintiff informed defendants (plaintiff does not say which defendants) that he was going to kill himself. None of the defendants did anything to help plaintiff.

While plaintiff was in clinical observation, defendant Thompson gave him a bed sheet. According to plaintiff, Thompson knew that plaintiff was on observation status when he gave plaintiff the sheet, and he knew that inmates on observation status were not allowed to have sheets. Thus, plaintiff alleges that Thompson intended for plaintiff to use the sheet to hang himself. Defendant Stellick was supposed to be performing checks every five minutes and would have noticed the sheet. But during at least some part of the day, Stellick was not checking on plaintiff every five minutes. When Stellick finally came by plaintiff's cell, plaintiff threatened to kill himself. Stellick did not intervene.

Plaintiff hung himself with the sheet. Although he did not kill himself, he suffered bruises on his neck and could not eat for several days.

After plaintiff hung himself, he “was lying motionlessly on the floor unresponsive with the bed sheet [tied] around his neck.” Dkt. 8, ¶ 18. Defendant Schneider ran into the cell and jumped on plaintiff’s back, causing plaintiff pain. A different guard, defendant Theo, also came into the cell, and he bent plaintiff’s wrist to the point of almost breaking it. The guards escorted plaintiff to the day room where Anderson took pictures of the injuries to plaintiff’s neck. Afterward, the guards escorted plaintiff to the shower area. There, Schneider “banged” plaintiff’s head against a metal shower door. *Id.* ¶ 22. Schneider also shoved a metal glove into plaintiff’s mouth, causing him gum damage and pain. Anderson saw all of this, but he did not intervene.

For the rest of the day, Anderson denied plaintiff the opportunity to have medical personnel examine him. Specifically, Anderson refused to summon a nurse to treat plaintiff after he received his injuries. Plaintiff also notified Stellick and defendant Casiana that he needed to see a nurse, but both defendants refused to assist plaintiff. According to plaintiff, defendants’ failure to contact a nurse right away made his injuries worse.

The next day, plaintiff saw defendant Reda, a registered nurse. Reda and defendants Jane/John Doe Nurses (other nurses at CCI) denied plaintiff pain medication for the injuries that he had suffered. They also denied plaintiff the opportunity to see a physician.

Plaintiff requested medical treatment several times during the next few weeks. Although Jane/John Doe Nurses saw plaintiff, they refused to provide him with pain medication. As a result, plaintiffs’ injuries worsened.

Plaintiff filed a complaint in this court on May 24, 2016.

## ANALYSIS

In my earlier order, I identified three deficiencies in plaintiff's complaint: (1) plaintiff had failed to allege how some of the defendants were personally involved in violating his constitutional rights, a requirement for liability under 42 U.S.C. § 1983; (2) plaintiff had failed to allege facts that, if true, would prove claims for unlawful conditions of confinement, deliberate indifference to his serious medical needs, and excessive force; and (3) plaintiff appeared to be trying to combine unrelated allegations against different defendants into one lawsuit, which Rules 18 and 20 prohibit. Dkt. 7, at 4-7. Plaintiff has addressed these deficiencies in his amended complaint, and he has dropped many of his allegations against some of the initial defendants.

Plaintiff alleges that Stellick, Thompson, Anderson, Casiana, Reda, and Jane/John Doe Nurses were deliberately indifferent to his medical needs. Specifically, plaintiff alleges that Thompson and Stellick ignored his threats of suicide, and that Thompson gave him a bed sheet, even though inmates on observation status were not supposed to have sheets. Plaintiff also alleges that after he hung himself, Anderson, Stellick, and Casiana ignored his requests for medical attention, and that Reda and Jane/John Doe Nurses refused to provide plaintiff with pain medication.

A claim for deliberate indifference to a prisoner's serious medical needs "contains both an objective and a subjective component." *Greeno v. Daley*, 414 F.3d 645, 653 (7th Cir. 2005). A prisoner must allege "that his medical condition [was] objectively, sufficiently serious" and that "prison officials acted with a sufficiently culpable state of mind." *Id.* (citations and internal quotation marks omitted). Here, plaintiff has adequately alleged facts to support deliberate indifference claims against Stellick, Thompson, Anderson, Casiana,

Reda, and Jane/John Doe Nurses. Thus, I will grant plaintiff leave to proceed against these defendants. At the preliminary pretrial conference that will be held later in this case, Magistrate Judge Crocker will explain the process for plaintiff to identify the real names of the Jane/John Doe defendants and amend the complaint to include the proper identities for these individuals.

Plaintiff also alleges that Schneider and Theo used excessive force against him by jumping on his back, bending his wrist, banging his head into a metal shower door, and forcing a metal glove into his mouth. Plaintiff's excessive force claims require him to allege that his prison guards used force that "entail[ed] the unnecessary and wanton infliction of pain." *Rice ex rel. Rice v. Corr. Med. Servs.*, 675 F.3d 650, 667 (7th Cir. 2012) (citations and internal quotation marks omitted). For this claim, "the pertinent inquiry is whether force was applied in a good faith effort to maintain or restore discipline or maliciously and sadistically for the very purpose of causing harm." *Id.* at 668 (citations and internal quotation marks omitted). Plaintiff has alleged facts to support his claims for excessive force against Schneider and Theo, and so I will grant him leave to proceed against these defendants.

Finally, plaintiff alleges that Anderson failed to protect him from Schneider and Theo's excessive force. To state a claim for failure to protect, plaintiff must allege that Anderson knew that guards were using excessive force against him and that Anderson had a realistic opportunity to intervene to prevent the harm from occurring." *Yang v. Hardin*, 37 F.3d 282, 285 (7th Cir. 1994). Here, plaintiff alleges that Anderson "sat back an[d] watch[ed] an[d] allowed the defendants to use excessive force to the plaintiff." Dkt. 8, ¶ 15. Plaintiff has therefore alleged facts to support his claim for failure to protect. I will grant him leave to proceed against Anderson with this claim.

In his initial complaint, plaintiff named defendants Dr. Dan Norge, Dr. Raymond Woods, Mike Morrison, Security Director Lucas Weber, Unit Manager David Melby, and Hoffman. Dkt. 1, ¶¶ 5-12. Plaintiff has not included these defendants in his amended complaint, nor has plaintiff alleged that these defendants took actions (or failed to take actions) that injured him. I will therefore deny plaintiff leave to proceed against these defendants and dismiss them from the case.

### ORDER

IT IS ORDERED that:

1. Plaintiff Tyrone Ards is GRANTED leave to proceed with the following claims:
  - a. Eighth Amendment deliberate indifference claims against defendants Correctional Officer Stellick, Correctional Officer Thompson, Theodore Anderson, Timothy Casiana, Joe Reda, and Jane/John Doe Nurses 1-3 for failing to respond to his threats of suicide, ignoring his requests for medical attention, and failing to provide him with pain medication;
  - b. Eighth Amendment excessive force claims against defendants Randy Schneider and Theo for jumping on plaintiff's back, twisting his wrist, banging his head into a metal shower door, and shoving a metal glove into his mouth; and
  - c. An Eighth Amendment failure to protect claim against Anderson for failing to intervene and prevent Schneider and Theo from using excessive force against plaintiff.
2. Plaintiff is DENIED leave to proceed against defendants Mike Morrison, Dr. Dan Norge, Dr. Raymond Woods, Security Director Lucas Weber, Unit Manager David Melby, and Hoffman 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. 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 failure to prosecute.

Entered August 9, 2016.

BY THE COURT:

/s/

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JAMES D. PETERSON  
District Judge