

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

DIONTE BURFORD,

Plaintiff,

v.

DANE COUNTY JAIL,

Defendant.

OPINION & ORDER

Case No. 19-cv-404-wmc

Plaintiff Dionte Burford brings this action under 42 U.S.C. § 1983, challenging the conditions of confinement at the Dane County Jail. Previously the court dismissed Burford's complaint without prejudice because he failed to name a proper defendant. Burford has since filed a proposed amended complaint, naming Dane County Sheriff David Mahoney as a defendant. (Dkt. #9.) His amended complaint is now before the court for screening as required by 28 U.S.C. § 1915A. For the reasons that follow, the court will grant plaintiff leave to proceed against defendant Mahoney on an Eighth Amendment conditions of confinement claim.

ALLEGATIONS OF FACT¹

Dionte Burford has been an incarcerated at the Dane County Jail since April 6, 2019. He alleges that since his arrival the water has had a heavy metallic taste and leaves a residue in his sink, which he believes puts his health at risk. Although not explicitly pled in his amended complaint, in his original complaint Burford further alleged that the water caused him severe abdominal pains and headaches. Burford further alleges that Mahoney has "known for years"

¹ Courts must read allegations in *pro se* complaints generously, resolving ambiguities and drawing reasonable inferences in plaintiff's favor. *Haines v. Kerner*, 404 U.S. 519, 521 (1972).

about the water contamination at the jail, but has not taken corrective action. (Am. Compl. (dkt. #9) 3.) Burford also alleges that the ventilation systems are clogged with mold, dust and dirt, which Mahoney should remedy because of his position as sheriff.

OPINION

Since plaintiff alleges that he has been “incarcerated” at the jail since April of 2019, the court infers that he is a prisoner and the Eighth Amendment governs his constitutional claims related to his conditions of confinement. *Smith v. Dart*, 803 F.3d 304, 309–10 (7th Cir. 2015). To screen this claim, the court considers whether the defendant was aware that he was subjecting the plaintiff to a substantial risk of serious harm and was consciously refusing to take reasonable steps to prevent the plaintiff from being harmed. *Farmer v. Brennan*, 511 U.S. 825, 842 (1994); *Rosario v. Brawn*, 670 F.3d 816, 821–22 (7th Cir. 2012); *Santiago v. Walls*, 599 F.3d 749, 756 (7th Cir. 2010). Another way of saying this is that a prison official may not deprive a prisoner of “the minimal civilized measure of life’s necessities.” *Rhodes v. Chapman*, 452 U.S. 337, 347 (1981).

Plaintiff’s allegations that the water tastes metallic and has caused him severe discomfort support a reasonable inference that the water puts him at substantial risk of serious harm. Likewise, Mahoney’s alleged knowledge of undrinkable water and his failure to take corrective action supports a reasonable inference of deliberate indifference. Accordingly, the court will grant plaintiff leave to proceed against Mahoney on an Eighth Amendment claim. However, plaintiff’s allegations about ventilation do not support an Eighth Amendment claim. Indeed, plaintiff has not provided any details about how ventilation actually reduces breathable air or has otherwise placed him at risk of harm. More importantly, unlike his challenge to the

quality of the water at the jail, plaintiff does not allege that defendant Mahoney is aware of the clogged ventilation and has failed to take corrective measures. Accordingly, while plaintiff may proceed on an Eighth Amendment claim challenging the water quality at the jail, he may not proceed on a claim related to the ventilation.

ORDER

1. Plaintiff Dionte Burford's is GRANTED leave to proceed on an Eighth Amendment deliberate indifference claim against defendant David J. Mahoney, related to the water at the jail.
2. The clerk's office is directed to prepare a summons, and the U.S. Marshal Service shall effect service upon defendant.
3. For the time being, plaintiff must send defendant a copy of every paper or document he files with the court. Once plaintiff has learned what lawyer will be representing defendant, he should serve the lawyer directly rather than 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 defendant or to the defendant's attorney.
4. 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.
5. If a plaintiff moves while this case is pending, it is his obligation to inform the court of his new address. If he fails to do this and defendant or the court are unable to locate him, his case may be dismissed for failure to prosecute.

Entered this 31st day of March, 2021.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge