

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

COREY M. CAMPANA,

Plaintiff,

v.

EAU CLAIRE COUNTY, RON CRAMER,
PHIL FIELDS AND JANE DOE,

Defendants.

ORDER

Case No. 15-cv-656-wmc

Pro se plaintiff Corey M. Campana brings this proposed civil action under 42 U.S.C. § 1983, alleging that the defendants violated his rights under the Fourteenth Amendment by failing to prevent or treat a skin rash he developed when in custody at the Eau Claire County Jail. The court previously granted Campana's motion to amend complaint, and so it has incorporated the information in that motion into his complaint, for purposes of screening under 28 U.S.C. § 1915A. For the following reasons, plaintiff may proceed on his Fourteenth Amendment claims against defendants Jane Doe and Phil Fields, but not against defendants Eau Claire County or Ron Cramer.

ALLEGATIONS OF FACT¹

Between January and March 2010, plaintiff Campana was in custody at the Eau Claire County Jail as a pretrial detainee. He names as defendants: Eau Claire County; Ron Cramer, the county sheriff; Phil Fields, a jail sergeant; and Jane Doe, a jail nurse.

¹ In addressing any pro se litigant's complaint, the court must read the allegations generously. *Haines v. Kerner*, 404 U.S. 519, 521 (1972). For purposes of this order, the court assumes the facts above based on the allegations in Campana's complaint.

During his time at the Jail, Campana developed a severe rash, allegedly due to its crowded conditions. He describes a rash that spread over his entire body and was extremely itchy and bumpy. Campana informed Nurse Jane Doe about his condition, but she would not see him until receiving multiple requests for treatment. When Nurse Doe did see him, she could not identify the rash, and she did not prescribe any medications or refer him to a doctor. Campana then filed a grievance with Sergeant Fields, but he also did nothing. After being released from the jail for work, Campana was able to see a doctor at the Marshfield Clinic, where he was diagnosed with a staph infection and prescribed cream and antibiotics.

OPINION

Plaintiff claims that defendants were deliberately indifferent to his serious medical need as a pretrial detainee in violation of the Due Process Clause of the Fourteenth Amendment. At the outset, Eau Claire County must be dismissed as a defendant because counties and other municipalities may not be held vicariously liable for the discretionary actions of employees under § 1983. *Gayton v. McCoy*, 593 F.3d 610, 622 (7th Cir. 2010).²

In the context of medical care claims, the Seventh Circuit has recognized that the due process rights of a pre-trial detainee are “at least as great as the Eighth Amendment protections available to a convicted prisoner,” meaning the plaintiff’s § 1983 claims

² The county *could* be held liable if plaintiff demonstrated that the alleged deprivations were performed in keeping with “an official policy, widespread custom, or deliberate act of a county decision-maker of the municipality or department.” *Grieverson v. Anderson*, 538 F.3d 763, 771 (7th Cir. 2008) (internal quotation omitted). However, plaintiff has not alleged any facts that would support a theory that the failure to treat his rash was the result of an official policy or custom.

under the Fourteenth Amendment “are analyzed under the Eighth Amendment test.” *Brown v. Budz*, 398 F.3d 904, 910 (7th Cir. 2005) (quoting *Estate of Cole by Pardue v. Fromm*, 94 F.3d 254, 259, n.1 (7th Cir. 1996)). For screening purposes, therefore, the relevant question is whether an official was aware of a substantial risk of a serious harm, but consciously refused to take reasonable measures to prevent the harm. *Forbes v. Edgar*, 112 F.3d 262, 266 (7th Cir. 1997).

Although the actual facts might undermine his claim, plaintiff’s allegations at least permit an *inference* that Nurse Jane Doe and Fields knew that he had a serious medical need, but failed to provide him with reasonable treatment. In particular, Campana’s description of the pain and severity of his rash, along with a diagnosis of a staph infection as its underlying cause, arguably creates an inference that he had a serious medical need. As to Jane Doe, plaintiff includes allegations that she ignored his initial requests to be seen *and* later failed to provide any medication or a referral when she did see him. Although plaintiff did not interact directly with Sergeant Fields, plaintiff submitted a grievance to him, and it appears that Fields also ignored it altogether. These allegations permit an inference that both Jane Doe and Fields knew about his severe rash, and they either responded inappropriately and unreasonably or ignored him altogether.

As to Sheriff Cramer, however, plaintiff does not include any allegations about his involvement beyond a conclusory statement that he knew about it. Even reading plaintiff’s allegations generously, there are no facts involving Cramer’s involvement in the treatment of plaintiff’s rash. Accordingly, plaintiff may not proceed against him. *See also*

Minix v. Canarecci, 597 F.3d 824, 833–34 (7th Cir. 2010) (“[I]ndividual liability under § 1983 requires personal involvement”).

ORDER

IT IS ORDERED that:

1. Plaintiff Corey Campana may proceed on his Fourteenth Amendment claims for deliberate indifference to his serious medical need against defendants Jane Doe and Phil Fields.
2. Plaintiff is DENIED leave to proceed on any claims against Eau Claire County and Ron Cramer, who are each DISMISSED.
3. For the time being, plaintiff must send defendants a copy of every paper or document he files with the court. Once plaintiff has learned what lawyer will be representing defendants, he should serve the lawyer directly rather than defendants. The court will disregard any documents submitted by plaintiff unless plaintiff shows on the court’s copy that he has sent a copy to defendants or to the defendants’ 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. The clerk’s office will prepare summons and the U.S. Marshal Service shall affect service upon these defendants, however, a summons will not issue for Jane Doe until plaintiff discovers the real name of this party and amends his complaint accordingly.
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 this 4th day of April, 2017.

BY THE COURT:

/s/

WILLIAM M. CONLEY

District Judge