

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

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TIMOTHY RANDOLPH,

Plaintiff,

v.

WELLPATH CORPORATE,  
DANE COUNTY JAIL, DEPUTY  
SERGEANT SCHROEDER, DEPUTY  
COYNE, DEPUTY BOYCE, DEPUTY  
ZHAN, NURSE MINDY, and NURSE  
MIKE,

Defendants.

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OPINION and ORDER

22-cv-732-wmc<sup>1</sup>

Pro se plaintiff Timothy Randolph is incarcerated at Dodge Correctional Institution. He alleges that Dane County Jail staff used excessive force against him and ignored his arm injury for over three weeks while he was incarcerated there. Randolph seeks leave to proceed in forma pauperis, and he has made an initial partial payment of the filing fee.

In a previous order, I dismissed Randolph's complaint for its failure to comply with Federal Rule of Civil Procedure 8. Dkt. 6. Randolph has submitted an amended complaint that I will screen and dismiss any portion that is legally 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 money damages. 28 U.S.C. §§ 1915, 1915A. In doing so, I must accept the allegations as true and construe the complaint generously, holding it to a

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<sup>1</sup> I am exercising jurisdiction over this case for the purpose of this screening order only.

less stringent standard than formal pleadings drafted by lawyers. *Arnett v. Webster*, 658 F.3d 742, 751 (7th Cir. 2011). I conclude that Randolph may proceed on Eighth Amendment claims against some defendants.

#### ALLEGATIONS OF FACT

Randolph was an inmate at the Dane County Jail on July 1, 2020. That evening, he refused Deputy Coyne's order to lock down and was taken to segregation. While Randolph was being moved to another cell, Deputy Sergeant Schroeder asked Deputy Coyne, Deputy Boyce, and Deputy Zhan why Randolph's "head [was] moving." Dkt. 1 at 2. Coyne, Boyce, and Zhan then "forced [Randolph] [in]to a steel door so hard" and Zhan bent Randolph's arm to the point that it "popped . . . out of the socket." *Id.* The three deputies restrained Randolph and placed him in a restraint chair. Randolph says this incident happened because Schroeder "didn't like [him] due to previous incidents in the past." *Id.* at 3.

Randolph was restrained in the chair in excruciating pain for two hours. Nurse Mindy arrived to check Randolph's vitals and to ensure that the restraint chair straps were not too tight. Despite Randolph's repeated requests for a nurse or a doctor to examine his arm, Nurse Mindy ignored Randolph's arm injury.

Randolph says he went a month without any evaluation or treatment for his arm and was in constant pain. During this time, Randolph repeatedly showed his injured arm with "the bone . . . sticking out" to Nurse Mike as he passed out medication to other inmates. *Id.* Nurse Mike's only response was that Randolph's arm would be fine. Meanwhile, Coyne and Zhan made jokes at Randolph's expense, asking him how his arm

felt. When Randolph was finally seen, the doctor could see even before x-rays were taken that Randolph's arm was "out of place." *Id.*

Randolph seeks damages and an order requiring the Dane County Jail to "treat inmates better and [to] get more medical staff who treat the inmates better." *Id.* at 4.

## ANALYSIS

Randolph indicates that he is suing under federal law for the denial of medical care and for the use of excessive force, which implicate the Eighth Amendment. As an initial matter, Randolph is no longer incarcerated at the Dane County Jail, so any claim for injunctive relief against that facility is moot. *See Higgason v. Farley*, 83 F.3d 807, 811 (7th Cir. 1996) (if a prisoner is transferred to another institution, his request for injunctive relief is moot unless he can make a reasonable showing that he is likely to be re-transferred); *Maddox v. Love*, 655 F.3d 709, 716 (7th Cir. 2011).

Randolph contends that Coyne, Boyce, and Zhan used excessive force against him. The Eighth Amendment protects prisoners from cruel and unusual punishment, which includes the unnecessary and deliberate infliction of pain on a prisoner. *Lewis v. Downey*, 581 F.3d 467, 475 (7th Cir. 2009). The inquiry for an excessive force claim is "whether force was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm." *Hudson v. McMillian*, 503 U.S. 1, 7 (1992); *see also Guitron v. Paul*, 675 F.3d 1044, 1046 (7th Cir. 2012). In determining whether an officer's use of force was excessive, relevant factors include why force was needed, how much force was used, the extent of the injury inflicted, whether the defendant perceived a threat to the

safety of staff and prisoners, and whether efforts were made to temper the severity of the force. *Whitley v. Albers*, 475 U.S. 312, 320–21 (1986). Randolph may proceed on excessive force claims against these defendants on allegations that they forced him into a steel door “hard,” injured his arm, and placed him in a restraint chair while in severe pain. Dkt. 1 at 2.

Randolph may also proceed on Eighth Amendment medical care claims against Coyne, Boyce, Zhan, Nurse Mindy, and Nurse Mike. The Eighth Amendment prohibits jail officials from consciously disregarding prisoners’ serious medical needs. *Estelle v. Gamble*, 429 U.S. 97, 103–04 (1976). To prevail on an Eighth Amendment medical care claim, a prisoner must prove that he suffered from an objectively serious medical condition and that staff consciously failed to take reasonable steps to help him. *Duckworth v. Ahmad*, 532 F.3d 675, 679 (7th Cir. 2008). Prolonged severe pain itself is a serious medical need, and delay in treatment may constitute conscious disregard if the delay unnecessarily prolongs the prisoner’s pain. *Smith v. Knox Cnty. Jail*, 666 F.3d 1037, 1039–40 (7th Cir. 2012). Randolph’s allegations suggest that he had a serious medical need, and I can infer that these defendants consciously disregarded that medical need from Randolph’s allegations that they each knew his arm was injured and that he was in serious pain but did nothing to ensure medical treatment.

Randolph cannot proceed against any other defendant. Although he names Wellpath Corporate and the Dane County Jail in the caption of the complaint, he does not explain why he is suing either entity. Regardless, the jail is a building; it is not a person who can be sued in this civil rights lawsuit. *See Smith v. Knox Cnty. Jail*, 666 F.3d 1037,

1040 (7th Cir. 2012) (“A prison or department in a prison cannot be sued because it cannot accept service of the complaint.”)

Likewise, Randolph cannot proceed against Schroeder on the vague allegations concerning this defendant. In lawsuits brought under 42 U.S.C. § 1983 to enforce constitutional rights, there is no general supervisory liability. *See Vinning-El v. Evans*, 657 F.3d 591, 592 (7th Cir. 2011) (“Section 1983 does not authorize ‘supervisory liability.’”). Randolph alleges that Schroeder asked Coyne, Boyce, and Zhan a question that preceded their use of force, but I cannot discern how Schroeder was otherwise involved in that incident, or that Schroeder was aware of Randolph’s injury and lack of treatment. Although Randolph suggests that Schroeder retaliated against him, there are no allegations indicating that Randolph was engaged in any conduct protected by the First Amendment. *See Bridges v. Gilbert*, 557 F.3d 541, 546 (7th Cir. 2009) (to establish a retaliation claim, a plaintiff must show that he engaged in activity protected by the First Amendment).

#### ORDER

IT IS ORDERED that:

1. Plaintiff Timothy Randolph is GRANTED leave to proceed on the following claims:
  - a. Eighth Amendment excessive force claims against defendants Deputy Coyne, Deputy Boyce, and Deputy Zhan.

- b. Eighth Amendment medical care claims against defendants Coyne, Boyce, Zhan, Nurse Mindy, and Nurse Mike.
2. Defendants Wellpath Corporate, Dane County Jail, and Deputy Sergeant Schroeder are DISMISSED from this lawsuit.
3. The clerk of court is directed to forward summonses, Randolph's amended complaint, and this order to the U.S. Marshals for service on defendants Coyne, Boyce, Zhan, Nurse Mindy, and Nurse Mike.
4. For the time being, Randolph must send defendants a copy of every paper or document that he files with the court. Once Randolph 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 Randolph submits that do not show on the court's copy that he has sent a copy to defendants or to defendants' attorney.
5. Randolph 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 Randolph 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 January 30, 2023.

BY THE COURT:

/s/

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JAMES D. PETERSON  
District Judge