

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

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JASON L. REED,

Plaintiff,

v.

OPINION AND ORDER

19-cv-189-wmc

C.O. MEYER, C.O. WHITE and  
SGT. GLICK,

Defendants.

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On March 9, 2020, the court granted *pro se* plaintiff Jason Reed leave to proceed on Eighth Amendment claims against defendants Meyer, White and Glick, for their alleged failure to respond adequately to his report that he was not receiving his prescribed depression medication and was having thoughts of suicide in September of 2018. (Dkt. #12.) In that opinion, the court noted that Reed's allegations indicated that additional individuals not named as defendants appear to have been involved in his unsuccessful attempts to obtain his prescribed medication. As such, the court instructed Reed to seek leave to amend his complaint if he wished to include those individuals as defendants. Reed has filed such a motion, as well as a proposed amended complaint. (Dkt. ##15, 16.) The court will grant Reed's motion, and, pursuant to 28 U.S.C. § 1915A, will grant Reed leave to proceed on Eighth Amendment deliberate indifference claims against defendants Lee, Drone and Krammer, but the court is dismissing Liebert.

## OPINION

In his amended complaint, Reed includes the allegations from his original complaint, which the court need not repeat here, but also identifies the following additional defendants: Correctional Officer Liebert, Nurse Lee, Nurse Drone, and Nurse Krammer. Reed alleges that he stopped receiving his depression medication starting September 21, 2018, and he began feeling a severe decline in his mood and started to have suicidal thoughts and nightmares. With respect to the newly added defendants, Reed further alleges that even though he informed CO Liebert and Nurses Lee, Drone and Krammer that he had not been receiving his medication as prescribed, they responded that there was nothing they could do about it and walked away.

Reed seeks to proceed against these defendants on Eighth Amendment deliberate indifference claims. A prison official who violates the Eighth Amendment in the context of a prisoner's medical treatment demonstrates "deliberate indifference" to a "serious medical need." *Estelle v. Gamble*, 429 U.S. 97, 104-05 (1976); *Forbes v. Edgar*, 112 F.3d 262, 266 (7th Cir. 1997). "Serious medical needs" include (1) life-threatening conditions or those carrying a risk of permanent serious impairment if left untreated, (2) withholding of medical care that results in needless pain and suffering, or (3) conditions that have been "diagnosed by a physician as mandating treatment." *Gutierrez v. Peters*, 111 F.3d 1364, 1371 (7th Cir. 1997). "Deliberate indifference" encompasses two elements: (1) awareness on the part of officials that the prisoner needs medical treatment and (2) disregard of this risk by conscious failure to take reasonable measures.

As an initial matter, the court accepts that Reed's need for his depression medication constitutes a serious medical need, especially because he alleges that when he stopped taking that medication it led him to commit self-harm. It is also reasonable to infer, at this early stage, that Nurses Lee, Drone and Krammer responded with deliberate indifference to his need for that medication. Although fact-finding may reveal that these defendants lacked the authority or ability to obtain a refill on Reed's depression medication, Reed alleges that each of them completely ignored Reed's complaints that his depression was not being treated as prescribed. Although Reed has not alleged that he reported thoughts of self-harm to these individuals, the fact that Reed reported that he was not receiving a prescribed medication for his depression should have prompted each of them to at least investigate whether Reed's assertion was true. Further, assuming that they could have taken *some* action to investigate Reed's complaint further to at least determine the status of his prescription or request a refill, it is reasonable to infer that their failure to take such a modest step constitutes deliberate indifference.

However, the court finds that Reed's allegations with respect to Liebert, a correctional officer, do not support an inference of deliberate indifference, since Reed has not alleged that Liebert would have reason to believe that he needed to take action to ensure that Reed received his medication. Indeed, Reed has not alleged that he informed Liebert he was experiencing any thoughts of self-harm or otherwise communicated to Liebert the negative ramifications of his inability to take his medication as prescribed. Although it may be reasonable to infer that medical personnel would understand the significance of the lapse in medication, the same inference cannot be drawn of a

correctional officer who has not been given any information suggesting that the prisoner is sick or under duress. Accordingly, the court will grant Reed leave to proceed against Lee, Drone and Krammer, but will dismiss Liebert.

ORDER

IT IS ORDERED that:

1. Plaintiff Jason Reed's motion to amend (dkt. #15) is GRANTED.
2. Plaintiff is also GRANTED leave to proceed on Eighth Amendment deliberate indifference claims against defendants Lee, Drone and Krammer.
3. Plaintiff is DENIED leave to proceed on any other claims, and defendant Liebert is DISMISSED.
4. The attorney general's office has until **May 20, 2020**, to inform the court whether it accepts service on behalf of Lee, Drone and Krammer.

Entered this 6th day of May, 2020.

BY THE COURT:

/s/

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WILLIAM M. CONLEY  
District Judge