

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

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MATTHEW SODERLIN,

Plaintiff,

v.

OPINION AND ORDER

18-cv-899-wmc

LORI DOEHLING, ANGELA THOMPSON,  
PAULA BRADY, Z. CASPER, T. GIMENEZ,  
A. LAMORE, S. BUNK, and JOHN and JANE  
DOES 1-5,

Defendants.

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*Pro se* plaintiff Matthew Soderlin, a prisoner at the Fox Lake Correctional Institution (“FLCI”), filed this lawsuit pursuant to 42 U.S.C. § 1983, claiming that various health care providers delayed or failed to provide him with refills for his prescribed medications in violation of the Eighth Amendment and state law. On June 26, 2019, the court dismissed Soderlin’s complaint without prejudice, explaining that his complaint failed to state a claim upon which relief could be granted, while allowing him to file an amended complaint correcting the deficiencies identified by the court. (Dkt. #4.) Soderlin has submitted a proposed amended complaint that is ready for screening as required by 28 U.S.C. § 1915A. (Dkt. #6.) For the reasons explained below, the court will now allow plaintiff to proceed on his Eighth Amendment deliberate indifference and Wisconsin negligence claims against all proposed defendants.

## ALLEGATIONS OF FACT<sup>1</sup>

Although Soderlin is currently incarcerated at FLCI, he was incarcerated at Redgranite Correctional Institution (“RGCI”) during the relevant time period. Soderlin names eight defendants. Seven of those defendants were working in RGCI’s Health Services Unit (“HSU”) during the relevant time period: Lori Doehling is the HSU Manager; Angela Thompson is a nurse; and “John and Jane Does 1-5” are nurses. The last defendant is a Maxim Healthcare Services (“Maxim”) employee, Paula Brady.

Soderlin suffers from hypothyroidism and Addison’s disease, also known as adrenal insufficiency. Both conditions relate to his body’s inability to produce sufficient hormones. To treat those conditions, Soderlin has been prescribed hydrocortisone and fludrocortisone. He alleges that his prescription dosages have steadily increased since 2013, and that he needs these medications to live.

Between May 27 and October 12, 2017, Soderlin claims that he stopped receiving his refills of his prescriptions in a timely fashion, resulting in him experiencing shortfalls of up to five days before he received refills, during which he was forced to go without that medication. For example, on May 27, Soderlin submitted a refill request for his hydrocortisone. He received that medication three days later, meaning that he went one day without the medication. On July 1, Soderlin submitted a request for a refill of his fludrocortisone, and on July 9, renewed his request, having run out of the medication at that point, adding a request for a refill of hydrocortisone. He received the hydrocortisone

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<sup>1</sup> 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 following facts based on the allegations in plaintiff’s amended complaint, unless otherwise noted.

three days later, on July 12, so he was without that medication for a few days. Soderlin finally received a refill of fludrocortisone four days later, meaning he went seven days without that medication.

Moreover, on July 12, a correctional officer allegedly told the Doe defendants that Soderlin was suffering from stress and his condition was “deteriorating” because he was not receiving his medications timely. Nevertheless, Soderlin continued to experience delays in obtaining hydrocortisone refills. Specifically, on July 20, Soderlin again requested a hydrocortisone refill but did not receive it for seven days, going without hydrocortisone for four days. Similarly, on August 31 Soderlin submitted another hydrocortisone refill request, which was filled eight days later, resulting in his going three days without that medication.

On September 6, the correctional officer allegedly again informed Does 1-5 that Soderlin was stressed and his condition was deteriorating because of the delays he was experiencing in obtaining his medications. Yet after Soderlin asked for a hydrocortisone refill on October 3, he again experienced a five-day period without that medication.

On October 11, Soderlin next submitted a Health Service Request (“HSR”), informing Nurse Thompson of the delays he had been experiencing in receiving his medication refills, as well as reporting the symptoms he was experiencing. Still, Soderlin alleges, none of the Doe defendants did anything about the delays, and while the Does may have informed Nurses Thompson or Brady about the delays, neither of these defendants did anything to correct the situation as well. Finally, Soderlin alleges that Nurses Thompson or Brady may have told HSU Manager Doehling about the delays, but

she, too, took no action.

In late October of 2017, Soderlin spoke with a psychologist about his fear of dying as a result of not receiving timely medication refills. On November 1, 2017, his psychologist allegedly emailed Nurse Thompson about the delays, writing that Soderlin had been sick and nauseated because he was not receiving his medication. Still, Thompson took no corrective action. Soderlin adds again that while Thompson may have passed on this information about Soderlin's mental health to HSU Manager Doehling, she again took no corrective action.

Finally, on December 20, 2017, Soderlin met with an endocrinologist at the University of Wisconsin-Madison hospital. Soderlin told her that his medications were consistently delayed, and the endocrinologist allegedly responded that she would contact Nurse Brady about the problem, but Brady took no corrective action.

## OPINION

Plaintiff seeks leave to proceed against all defendants on claims of deliberate indifference under the Eighth Amendment and of negligence under Wisconsin law. Starting with the Eighth Amendment, 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. Thus, a plaintiff’s claim has three elements under this Eight Amendment standard:

1. Did plaintiff objectively need medical treatment?
2. Did defendants know that plaintiff needed treatment?
3. Despite their awareness of the need, did defendants consciously fail to take reasonable measures to provide the necessary treatment?

*Id.* The elements of a negligence claim under Wisconsin law are less stringent, requiring plaintiff to prove: (1) a duty of care on the part of the defendant; (2) a breach of the duty, which involves a failure to exercise ordinary care in making a representation or in ascertaining the facts; (3) a causal connection between the conduct and the injury; and (4) an actual loss or damage as a result of the injury. *Green Spring Farms v. Kersten*, 136 Wis. 2d 304, 307 (1987).

The court will accept that plaintiff’s Addison’s disease and hypothyroidism, both of which require prescription medications, constitute serious medical needs. Accordingly, the only question under the Eighth Amendment claim is whether plaintiff has pleaded sufficient facts to permit a reasonable inference that each defendant knew about his condition and need for prompt medication refills, yet failed to take reasonable measures in response.

Starting with the Doe defendants, plaintiff has not alleged that any of these defendants was aware that he was experiencing delays between May and July 12, 2017,

when a correctional officer allegedly first informed them that plaintiff's delays in getting his refills were causing him "stress" and his condition was "deteriorating." Accordingly, plaintiff may not proceed on any claims related to those early delays. However, after July 12, it is reasonable to infer that these health care professionals were in a position to investigate and correct the delays associated with plaintiff's subsequent refill requests -- as well as the adverse symptoms he was experiencing as a result -- but failed to do so. Indeed, plaintiff alleges that he *consistently* received his medications multiple days late in July, August, September and October, resulting in repeated gaps in the availability of needed medications. While the Doe defendants may not have been responsible for each delay, it may be reasonable to infer that these defendants knew plaintiff was not receiving his medications properly and that it was having ill effects on him, but still did nothing to correct the delays. Those allegations are sufficient to allow plaintiff to proceed against these defendants, on both deliberate indifference and negligence claims.

While acknowledging that plaintiff's allegations as to defendants Thompson, Brady and Doehling's involvement are more vague, the court will also allow plaintiff's claims against them to proceed past screening. The earliest Thompson and Brady may have learned about the medication delays is October 11, 2017, when plaintiff directed an HSR to Thompson, who then may have informed Brady about the HSR as well. The earliest that Doehling learned about the delays would have been after November 1, 2017, after plaintiff's psychologist told Thompson about plaintiff's concerns with delays in getting refills, and Thompson may have informed Doehling as well.

Although the last medication delay plaintiff outlines in his complaint was related to

his October 3, 2017, refill request, plaintiff alleges that he again reported delays to his psychologist in November, and then again to a UW-Madison endocrinologist in December. Drawing every reasonable inference in plaintiff's favor, it appears that plaintiff was continuing to experience delays at the time of those meetings, since both his psychologist and endocrinologist allegedly agreed to take corrective action. Therefore, it is likewise reasonable to infer for screening purposes that Thompson, Brady and/or Doehling again failed to take any corrective action despite learning about plaintiff's further complaints. Although fact-finding may reveal that (1) plaintiff did not actually experience any delays after October of 2017, or (2) Thompson, Brady or Doehling were not actually aware of those delays, the court will infer that plaintiff continued to experience delays in refilling his prescriptions and Thompson, Brady and Doehling failed to correct that problem. Accordingly, the court will grant plaintiff leave to proceed against the Doe defendants, Thompson, Brady, and Doehling on both Eighth Amendment deliberate indifference and Wisconsin negligence claims.

## ORDER

IT IS ORDERED that:

1. Plaintiff Matthew Soderlin is GRANTED leave to proceed against John and Jane Doe 1-5, Lori Doehling, Angela Thompson and Paula Brady, on Eighth Amendment deliberate indifference and Wisconsin negligence claims.
2. Plaintiff is DENIED leave to proceed on any other claims.
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 nominal defendant RGCW Warden. Under the agreement, the Department of Justice

will have 60 days from the date of the Notice of Electronic Filing in this order to answer or otherwise plead to the plaintiff's complaint if it accepts service for the defendant.

4. Summons will not issue for the Doe defendants until plaintiff identifies them and amends his complaint accordingly.
5. For the time being, plaintiff must send the defendants a copy of every paper or document he files with the court. Once plaintiff has learned what lawyer will be representing the defendants, he should serve the lawyer directly rather than the 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 the defendants or to the defendants' attorney.
6. 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.
7. If plaintiff is transferred or released while this case is pending, it is plaintiff's 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 claims may be dismissed for his failure to prosecute him.

Entered this 1st day of June, 2020.

BY THE COURT:

/s/

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WILLIAM M. CONLEY  
District Judge