

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

ALPHONCY DANGERFIELD,

Plaintiff,

v.

MS. WATERMAN, J. LABELLE, S. ANDERSON,
E. RAY, GARY BOUGHTON, N. BETHEL,
DEPUTY WARDEN WINKLESKI, T. BONSON,
MS. SUTTER, J. HILL, MS. DICKMAN,
JIM SCHWOCHERT,
JOHN DOE CASHIER UNIT SUPERVISOR,
CATHY JESS, and KELLI WILLARD WEST,

Defendants.

OPINION & ORDER

17-cv-230-jdp

Plaintiff Alphoncy Dangerfield, a prisoner at the Wisconsin Secure Program Facility, filed a complaint alleging that prison officials failed to properly treat his diabetes and hyperglycemia and did not provide him with comfort items to relieve the pain he suffers, and that other prison officials have withdrawn funds from his accounts to pay court debts that he has already fully paid. In my previous order screening the complaint, I concluded that Dangerfield was attempting to bring two different types of claims against different sets of prison officials, which violates Federal Rule of Civil Procedure 20 by joining claims together that do not belong in the same lawsuit. Dangerfield's complaint included claims that belong in two separate lawsuits:

Lawsuit No. 1: Claims about his medical problems

Lawsuit No. 2: Claims about the withdrawal of his funds

I gave Dangerfield a chance to explain which of these two lawsuits he wished to pursue under this case number. Dangerfield has responded by selecting Lawsuit No. 1, about his

hyperglycemia. I will now screen his complaint. In doing so, I must read Dangerfield's allegations generously. *Haines v. Kerner*, 404 U.S. 519, 520–21 (1972). After reviewing the complaint with this principle in mind, I conclude that Dangerfield may proceed with Eighth Amendment and Wisconsin-law negligence claims regarding his medical problems.

ALLEGATIONS OF FACT

Plaintiff Alphoncy Dangerfield is a prisoner at the Wisconsin Secure Program Facility. He is diabetic. In November 2015 he suffered shoulder and back pain. In January 2016 he was placed on a list to see an outside orthopedic doctor. He saw the outside doctor in March 2016 and was diagnosed with “bilateral rotator cuff disease.” He was given steroid injections and was told that nurses would have to monitor his glucose level because the steroid shots could affect it.

Over the next two months or so, Dangerfield suffered a host of medical problems, including difficulty seeing, tiredness, need for frequent bathroom breaks, muscle pain, and chest tightness. I take him to be saying that defendants J. Waterman (the health services manager), J. Labelle (the nursing coordinator), S. Anderson (a nurse), and B. Griffin (an advanced practice nurse prescriber) all failed to monitor his glucose level. Dangerfield filed grievances about the lack of proper treatment, but defendant Labelle denied them. On May 7, 2016, defendant Nurse Bethel performed a “urination dip sample” and put him on a list to be seen by a nurse practitioner.

On May 17, 2016, Dangerfield “could not take it anymore” and contacted medical staff. They evaluated him and recorded what Dangerfield says were extremely high blood glucose levels. He was taken to the emergency room and later provided various treatments for his

diabetes and hyperglycemia. Dangerfield could no longer receive his steroid treatment for his shoulders because of the hyperglycemia he developed, which has led to him suffering more pain.

In September 2016, Dangerfield sought an extra mattress because of his body pain and numbness caused by his diabetes. Defendant Nurse Bonson initially told Dangerfield that she could not arrange for the mattress herself, but she also later served on the Special Needs Committee that denied him the mattress, even though other inmates received them. Defendants Waterman, Anderson, Winkleski (the deputy warden), and Ms. Sutter (who worked in the business office) also served on the committee.

Dangerfield also wanted to participate in yoga because one of his doctors recommended it. But he was denied a yoga mat because he was not part of the “Eastern Religion” group. He wrote to defendant Kelli Willard West, the religious practices coordinator, but she did not respond.

ANALYSIS

Dangerfield states that he seeks to bring Eighth Amendment and Wisconsin medical malpractice or negligence claims.

A. Eighth Amendment

The Eighth Amendment prohibits prison officials from acting with deliberate indifference to prisoners' serious medical needs. *Estelle v. Gamble*, 429 U.S. 97, 103–04 (1976). A “serious medical need” may be a condition that a doctor has recognized as needing treatment or one for which the necessity of treatment would be obvious to a lay person. *Johnson v. Snyder*, 444 F.3d 579, 584–85 (7th Cir. 2006). To be considered “deliberately indifferent,” an official

must know of and disregard “an excessive risk to an inmate's health or safety; the official must both be aware of the facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference.” *Snipes v. Detella*, 95 F.3d 586, 590 (7th Cir. 1996).

Dangerfield alleges that WSPF staff’s failure to follow a doctor’s orders to check his blood glucose led to him suffering a host of symptoms for two months, and I take him to be saying that the failure to maintain a lower glucose level led to more chronic hyperglycemia. In addition, because he now suffers from hyperglycemia he cannot receive more steroid injections, which has left him with shoulder pain, and various officials will not provide him with comfort items like an extra mattress or yoga mat. At this point I will consider all of these problems to be serious medical needs.

It is more difficult to tell which defendants are responsible for each of his alleged problems because Dangerfield’s allegations are not precise about each defendant’s actions and he lumps seemingly unrelated sets of defendants together at times. But he says that defendants Waterman, Labelle, Anderson, and Griffin all took part in “refusing” to check his glucose level, which led to him suffering for two months and made it harder to provide long-term pain treatment for his shoulders. I will allow him leave to proceed on Eighth Amendment claims against each defendant, although at summary judgment or trial he will have to show both that it was truly each defendant’s responsibility to perform those checks and that each defendant was more than negligent in failing to perform them. He also says that Labelle denied his grievances about the lack of proper care even though she could have helped him, which supports an Eighth Amendment claim in its own right.

Dangerfield also alleges that defendants Bonson, Winkleski, Waterman, Sutter, and Anderson served on the Special Needs Committee that denied his request for a mattress even though they knew he suffered pain from his medical problems and other inmates did receive that accommodation. I will allow Dangerfield to proceed on deliberate indifference claims against these officials as well.

Dangerfield brings a similar claim about defendant Willard West ignoring his complaint about being denied a yoga mat even though a doctor had recommended he perform yoga. I am skeptical that Dangerfield truly needed a yoga mat to perform yoga without pain, but construing his complaint generously at this time I will allow him to proceed on a claim against Willard West.

I will not allow Dangerfield to proceed on any claims against defendant Nurse Bethel. He alleges only that Bethel performed a “urination dip sample” and put him on a list to be seen by a nurse practitioner. Nothing about this allegation raises a reasonable inference that Bethel was deliberately indifferent to his needs; rather, it shows that Bethel attempted to assess Dangerfield and arrange for further treatment.

B. State-law claims

In addition to his Eighth Amendment claim against defendants Waterman, Labelle, Anderson, and Griffin for refusing to monitor his glucose level, he brings an alternate theory that they were negligent in doing so. Under Wisconsin law, a negligence or medical malpractice claim requires the following four elements: (1) a breach of (2) a duty owed (3) that results in (4) an injury or injuries, or damages.” *Paul v. Skemp*, 2001 WI 42, ¶ 17, 242 Wis. 2d 507, 625 N.W.2d 860. Dangerfield cannot maintain medical malpractice claims under Wisconsin Statutes Chapter 655 against the defendants who are nurses because that chapter does not

allow claims against nurses. But for now I will assume that Dangerfield could still maintain a Wisconsin-law negligence claim against them, so I will allow him to proceed with medical malpractice or negligence claims against each defendant, with the specific cause of action to be determined as the parties develop the case.

ORDER

IT IS ORDERED that:

1. Plaintiff Alphoncy Dangerfield is GRANTED leave to proceed on the following claims:
 - Eighth Amendment claims against defendants Waterman, Labelle, Anderson, Griffin, Bonson, Winkleski, Sutter, and Willard West.
 - Wisconsin-law negligence or medical malpractice claims against defendants Waterman, Labelle, Anderson, and Griffin.
2. All other claims and defendants are DISMISSED from the case.
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 defendants. Plaintiff should not attempt to serve defendants on his own at this time. Under the agreement, the Department of Justice will have 60 days from the date of the Notice of Electronic Filing of this order to answer or otherwise plead to plaintiff's complaint if it accepts service for defendants.
4. For the time being, plaintiff must send defendants a copy of every paper or document that he files with the court. Once plaintiff learns the name of the lawyer or lawyers who will be representing defendants, he should serve the lawyer directly rather than defendants. The court will disregard documents plaintiff submits that do not show on the court's copy that he has sent a copy to defendants or to defendants' attorney.
5. Plaintiff 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 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 the

defendants or the court are unable to locate him, his claims may be dismissed for his failure to prosecute them.

Entered January 17, 2018.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge