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2016 JUL -7 AM 10:28

United States District Court
Western District of Wisconsin

PETER OPPENEER
CLERK US DIST COURT
WD OF WI

Charles E. Spangler
(Full name of plaintiff(s))

244841
(Prisoner I.D. Number)

Plaintiff(s).

v.

Donna Pittman MD.

Stacy Rose RN.

(Full name of defendant(s))

Defendant(s).

DOC NO
REC'D/FILED

2016 MAY 11 AM 11:07

PETER OPPENEER
CLERK US DIST COURT
WD OF WI

Case No. **16 C 312-jdp**
(Provided by clerk of court)

COMPLAINT UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

I. PLACE OF PRESENT CONFINEMENT (Provide full address)

Stanley Corr. Inst. 100 Corrections Dr. Stanley WI 54768

A. Is there a grievance procedure in your prison/jail? YES NO

B. Have you filed a grievance concerning the facts relating to this complaint?
YES NO

C. If you have used the grievance process:

1. Describe what you did and the result, if any.

Filed several inmate grievances complaining
about serious medical conditions & need for
Treatment, denial thereof.

2. Is the grievance process completed? YES

D. If you did not use the grievance process, explain why not. NA

4/07

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II. PARTIES

A. Your name (Plaintiff) Charles E. Spangler

B. Prisoner I.D. Number 244841

C. Your address 100 Corrections Dr., Stanley WI 54768

(For additional plaintiffs provide the same information in the same format on a separate page.)

D. DEFENDANT (name) Donna Pittman, MD

is employed as Medical Doctor

at Eau Claire County Jail, 728 Second Ave. Eau Claire, WI 54703

E. Additional DEFENDANTS (names and positions):

Stacy Rose, Registered Nurse,

Joel Brettingen, Captain - Eau Claire Co. Jail

R. Salimes, Lieutenant - Eau Claire Co. Jail.

M. Klotz, Sergeant - Eau Claire Co. Jail.

III. PREVIOUS LAWSUITS

A. Have you begun other lawsuits in state or federal court relating to the same facts involved in this action? YES NO

B. Have you begun other lawsuits in state or federal court relating to your imprisonment? YES NO

C. If your answer is YES to either of the above questions, provide the following requested information.

1. Parties to the previous lawsuit

Plaintiff(s): NA

Defendant(s): NA

2. Date filed NA

3. Court where case filed (if federal court, name district; if state court, name the

- county) NA
4. Case number and citation NA
5. Basic claim made NA
6. Current status (for example: Was the case dismissed? Was it appealed? Is it still pending?) NA
7. If resolved, date of disposition NA
8. If resolved, state whether for NA
(Plaintiff or Defendant)

(For additional cases, provide the above information in the same format on a separate page.)

IV. STATEMENT OF CLAIM

- A. State as briefly as possible the facts of your case. Describe how each named defendant is involved. Include the names of other persons involved, dates, and places. Describe specifically the injuries incurred. Do not give legal arguments or cite cases or statutes. You may do that in Item "B" below. If you allege related claims, number and set forth each claim in a separate paragraph. Use as much space as you need to state the facts. Attach extra sheets, if necessary. Unrelated separate claims should be raised in a separate civil action.

On March 13, 2010, I was booked into the Eau Claire County Jail. At that time I made the Jail intake staff aware of the fact that I was disabled and suffered from multiple medical conditions. On 3-20-10, I filed a request for non-emergency health care, wherein I asked to see the doctor or nurse pertaining to my medications and back and neck pain. (see Exhibit #1). After not receiving a response, I filed a second health care request on 3-23-10, requesting another mattress for back pain, informing them that I can't be locked out of my cell all day (which is jail facility policy). (see Exhibit #2), (staff denies request on 3-24-10). On 3-24-10 I filed a third health care request asking to see a doctor, informing them again of my medical condition, and that if I continue being locked out of my cell. I will need emergency medical treatment. (see Exhibit #3). On 3-24-10 I filed a grievance continuing my complaints and request for medical attention. (See Exhibit #4). Sgt. M. Klotz responded. (see Exhibit #4).

On 4-16-10, I filed a grievance following my being moved as a result of inmates stealing my property, and contraband belonging to another inmate that was found in that inmates drawer, which I have nothing to with. As a result of my being moved to a different housing unit, I was again locked out of my cell all day, thus this grievance again informed staff that I was in pain, and without pain medication. (see Exhibit #5) (response to grievance denies extra mattress, plastic support chair, and denies my request to not be locked out of my cell all day.).

On 4-21-10, I filed a grievance complaining of problems with inmate previously found with contraband in his drawer, asking staff to return me back to minimum housing unit, for an extra mattress, plastic chair, and not to be locked out of my cell. (see Exhibit #6). (Response denies or ignores requests).

On 4-30-10, I filed another Non-Emergency Health Care Request, again complaining of ongoing unbearable back pain. Requesting plastic chair, extra mattress, and reduce lock out time periods. Offering verified medical records from previous doctors (prior to incarceration) and from Social Security Judge. (see Exhibit #7) (response denies my requests).

On 4-30-10, I filed another grievance complaining that I was being ignored, that my back pain had increased, informing them that I have been continuously alerted them that I am disabled, and again requesting plastic chair, extra mattress, reduce my cell lock out time to 2 hours or less. (see Exhibit #8). (response ignores treatment for pain, and denies my requests for Extra Mattress, Plastic Chair, and reduce cell lock out time).

On 5-2-10, I filed a 5th Non-Emergency Health Care Request, continuing my ongoing complaints concerning my back pain, that it has worsened and causing muscle spasms. Further complaining about being without any anti-inflammatory medications. (see Exhibit #9) (Response merely says I'm on medical list).

On 5-2-10, I filed a grievance informing staff that I have continuously been denied medical treatment since my arrival to the Jail. (see Exhibit #10) (Response again evades my requests, ignores my pain and need for immediate medical treatment, my requests for extra mattress, reduced cell lock out, and merely says I'm on the doctors list).

Statement of Plaintiff (continued):

On 5-10-10, I filed a 6th Non-Emergency Health Care Request, asking to to again see the doctor again about my pain issues. (see Exhibit #11) Response states they will review my records, but no changes, thus again continued to ignore my ongoing requests for medical treatment, extra mattress, plastic chair, reduced cell lock out times).

On 5-10-10 I filed a grievance up the chain of command directly to Lt. Salimes, informing him in depth of my continuous attempts to acquire medical attention and the denial thereof. (see Exhibit #12) (Response- after stating that per the nurse - they have my medical records on the Inmate Grievance Form marked as Exhibit #10, they now claim that those exact same medical records were delayed, thus that they don't have them according to Lt. Salimes in his response on this grievance marked as Exhibit #12).

On 5-12-10, I filed another grievance to the last step of the chain of command within the jail grievance system - to Captain Joel Brettingen, complaining that I was being denied medical treatment and neglected in depth. (see Exhibit #13). (Response continues to deny medications that were prescribed by my personal doctor in the community, and continued to deny medical accessories as well).

Both Doctor Donna Pittman MD, and Nurse Stacy Rose RN, were fully aware that I was disabled, as early as 3-31-10, and fully aware of all of my medical conditions from that date thru my release from the Eau Claire County Jail on 5-20-10, whereas Doctor Pittman documented in her Medical Progress Notes; on 3-31-10: PT (patient) is a 40 year old male who c/o (complains of) back and knee pain. He brings his SSA Disability Notification. Doctor Pittman proceeds to document a detailed list of Plaintiff Spangler's medical conditions. These Medical Progress Notes are verified by Nurse Stacy Rose RN. (See Exhibit # 14 Medical Progress Notes) Doctor Donna Pittman MD, further documents on 5-4-10 in her Medical progress notes; "Back, I didn't receive any med records for this PT. All I have is a copy of his disability authorization from Oct. '09., and finally recommends an extra mattress. No Plastic Chair, nor excuse from cell lock out. Nurse Stacy Rose RN, verifies Doctor Pittman's notes of 5-4-10. (See Exhibit #15 Medical Progress Notes) and (See Exhibit #16 Social Security Administration Disability Authorization Documents).

STATEMENT OF CLAIM continued

Plaintiff Spangler continued to complain about having to stand for excessive periods of time, due to cell lock out, and his inability to sit on hard metal stools, because he continued to be denied a plastic chair. The response to Grievance (Ex. #7) states "the doctor has not excused you from normal jail lock out (4-30-10). The Response in Grievance (Ex. #8) states "Use of Plastic Chairs-Extra Mattress and Excuse from lockout are decisions made by jail staff and supervisors (5-2-10). The Response in Grievance (Ex. #10) states "Per nursing, they have your medical records," (5-2-10). The Response in Grievance (Ex. #12) states; "Mr. Spangler, Your medical records were delayed." "The doctor advises that other than the 2nd mattress there is no need for special accommodations." Lt. Salimes (5-11-10). Doctor Donna Pittman MD, Nurse Stacy Rose knew Spangler had serious medical conditions that required special accommodations. They both continued to deny him adequate medical care per those conditions. Captain Joel Brettingen, Lt. Salimes, and Sgt. Klotz, were continuously made aware of Spangler's medical condition and need for extra mattress, Plastic Chair, and no cell lock out, and these items were denied.

B. State briefly your legal theory or cite appropriate authority.

Plaintiff Charles Spangler was legally disabled under Sections 216(i) and 223(d) of the Social Security Act. (See. Exhibit #16) SSA Documents. Splanger claims that the defendant's were deliberately indifferent. To establish his claim, Spangler shows that his medical condition was serious. And that failure to treat his serious medical condition could result in further significant injury or the unnecessary and wanton infliction of pain. Spangler meets this burden by submitting his SSA Documents, marked as Exhibit #16). The Seventh Circuit Court of Appeals has explained that Deliberate Indifference means to deliberately ignore a request for medical assistance which is held to be a form of cruel and unusual punishment providing that the illness or injury for which assistance is sought is sufficiently serious or painful to make the refusal of assistance uncivilized. Cooper v. Casey, 97 F. 3rd 914, 916-17 (7th Cir. 1996).

Statement of Claim B. (continued).

The defendant's knew that Spangler was disabled, and that his medical condition was serious. The defendant's also knew that failure to treat his medical condition could result in further significant injury or the unnecessary and wanton infliction of pain, and did. This is established by the fact that Doctor Donna Pittmann MD, and Nurse Stacy Rose RN by their own acknowledgment and admission knew in detail what Spangler's medical conditions were. Knew how serious they were, and knew that if his serious medical conditions went untreated it could result in further significant injury and that Spangler was already being inflicted with unnecessary pain. This was known to both Doctor Pittman and Nurse Stacy Rose had been provided the 6 page SSA document, (Exhibit #16) and made a thorough written documentation in the Medical Progress Notes (See Exhibits #14 & #15).

To Establish the second prong of deliberate indifference Spangler shows that both Doctor Pittman and Nurse Rose the requisite culpable state of mind, "Deliberate indifference." Doctors and other health care providers are deliberately indifferent if two factors can be shown. (1) Know of, and (2) disregard an excessive risk to inmate health or safety, or are aware of facts from which one could infer that a substantial risk of serious harm exists, and draw that inference. Spangler has shown that the defendant's "knew of" his serious medical conditions, and disregarded the excessive risk to his health and safety. In addition to failing to provide medical treatment to Spangler, medical accommodations such as an extra mattress, plastic chair, and failure to allow him access to his bed during several hours of the day due to cell lock out policy, the defendant's failed to provide him with pain medication for months which resulted in unnecessary and wanton infliction of pain. The defendant's knew that Spangler was in constant pain, by his continuously informing them of his pain, and of his having been continuously denied pain medication. Spangler claims that the defendant's actions were so far afield of accepted professional standards as to raise the inference that their decisions to ignore, refuse and deny him medical treatment were not actually based on any medical judgment. But rather, the defendant's shuffled the responsibility to accommodate Spangler with medical treatment and medical needs between Jail staff, supervisors, such as Captain Joel Brettingen, Lt. Salimes, and Sgt Klotz, who were said to be responsible for providing such items as extra mattress's, plastic chairs, and excuses from cell lock out policy, and yet were blaming medical staff for his not receiving these medical accommodations, as medical staff was in turn stating it was the Jail staff, and supervisors responsibility to accommodate Spangler with these needs.

Statement of Claim B (continued)

The Seventh Circuit Court of Appeals explained that "the question becomes how "obvious" a risk must be, or how "erroneous" a medical professional's treatment decision must be, such that a jury may infer subjective awareness of the risk in a medical treatment case.

The answer is that "Deliberate Indifference" may be inferred based upon a medical professional's erroneous treatment decision only when the medical professional's decision is such a substantial departure from the accepted professional judgment, practice, or standards as to demonstrate that the person responsible did not base the decision on any medical judgment. Estate of Cole v. Fromm, 94 F.3rd 254, 262 (7th Cir. 1996).

The defendant's clearly cannot provide a reasonable explanation for the course of conduct of which the plaintiff complains. In addition to this, the defendant's actions which constitute deliberate indifference, their conduct is more than gross negligence. It "approaches intentional wrongdoing" and can be described as essentially "criminal recklessness," whereas, the defendant's knew of the Plaintiff's serious medical conditions, knew of the pain he was suffering due to their failure to provide him with medical attention and treatment, and knew the risks of causing further significant injury and unnecessary and wanton infliction of pain, and they ignored that known risk. Prison or jail personnel violate the right of an inmate under the Eight Amendment to be free of cruel and unusual punishment when they exhibit deliberate indifference to the inmate's serious medical needs. Johnson v. Doughty, 433 F.3rd 1001, 1010 (7th Cir. 2006). This principle is applied when the indifference is manifested by staff doctors in their response to the inmate's medical needs and when jail staff intentionally deny or delay access to medical care. It is the Plaintiff's claim that the the defendant's conduct constitutes "deliberate indifference" and that their conduct constitutes cruel and unusual punishment, and therefore that the defendant's violated his Eight Amendment right which prohibits jail staff from deliberate indifference to an inmate's serious medical needs. (end)

V. RELIEF YOU REQUEST

State briefly and exactly what you want the court to do for you. Make no legal arguments. Do not use this space to state the facts of your claim. Use it only to request remedies for the injuries you complain about.

The Plaintiff, Charles E. Spangler, respectfully asks
that this court award him Two Hundred and Fifty Thousand
(\$250,000.00) Dollars in monetary damages.

I declare under penalty of perjury that the foregoing is true and correct.

Complaint signed this 27 day of April, 2016.

Signature of Plaintiff(s)

Charles E. Spangler
(If there are multiple plaintiffs, each must sign the complaint)

Prisoner I.D. Number(s) 244841