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

DOC NO
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2015 AUG -6 AM 10:01
PETER OPPENEER
CLERK US DIST COURT
WD OF WI

Robert #342217
[redacted] STEED,

Plaintiff,

V.

CASE NO. 15-CV-55-jdp

DR. SYED, IN HIS OFFICIAL AND INDIVIDUAL CAPACITIES; WARDEN DOUMA, EDWARD F. WALL, AND RN WARNER IN THEIR OFFICIAL CAPACITY;

Defendant(s).

AMENDED VERIFIED 42 U.S.C. § 1983 CIVIL RIGHTS COMPLAINT

PRELIMINARY STATEMENT

1). This is civil rights action authorized under 42 U.S.C. § 1983 to redress the deprivation under color of state law of rights secured by the United States.

2). This is a civil right action filed by Robert Steed, a state prisoner for an injunction, declaratory relief for inadequate medical care against defendants Syed, Douma, Wall and Warner in their official capacity, against defendant Syed in his individual capacity for a nominal damage of $1.00, Compensatory damages of $50,000 and and punitive damages; This case is also filed for retaliation against defendant Syed in his individual capacity for a nominal damage of $1.00, compensatory damages of $50,000 and punitive damages.

3). This case also alleges negligence/malpractice claims in which this court has concluded that the plaintiff has stated (See Steed V. Syed, et. al., Case No. 15-CV-55-jdp, opinion & order, dated July 16, 2015, P. 1 & 4). These state law claims are for $100,000 in compensatory damages, and punitive damages for $1.6 Million and a nominal damage of $1.00.

4). This case challenges the delivery of health services to inmates at NLCI/WDOC on a systemic institution level and state wide level concerning the current system of filling medication orders at NLCI/WDOC poses a substantial risk of serious harm to the plaintiff. The plaintiff is also in imminent danger of serious physical injury by the current system of filling medication orders in the future.

JURISDICTION

4). This court has jurisdiction under 28 U.S.C. § 1331 and 1343(a)(3);

5). This court has supplemental jurisdiction over the plaintiff's state law claims of negligence/malpractice under 28 U.S.C. 1367;

6). Plaintiff seeks declaratory relief pursuant to 28 U.S.C. § 2201 and 2202;

7). Plaintiff Steed does seek claims for injunctive relief which are authorized by 28 U.S.C. 2283 and 2284 and Rule 65 of the Fed.R.Civ.P.;

8). Plaintiff Steed does seek attorney fees if one is appointed or if a Pro Bono attorney decided to take this case voluntarily;

9). This case has subject matter jurisdiction on a federal question;

10). The plaintiff demands a jury trial.

PARTIES

PLAINTIFF

11). Plaintiff Robert Steed is at all times mentioned herein, a state prisoner of the state of Wisconsin, in the custody of the Department of Correction. I am currently confined at Columbia Correctional Institution. Plaintiff Robert Steed address is : Robert Steed #342217, Columbia Correctional Institution, P.O. BOX 900, Portage, WI 53901-0900;

DEFENDANTS

12). Defendant DR. Syed was a doctor at NLCI. He was responsible for providing care to inmates at NLCI. He has acted under color of state law. He is liable for the constitutional and state violations set out in this complaint. He is sued in his official and individual capacities. Defendant DR. SYED address is: DR. SYED, New Lisbon Correctional Institution("NLCI"), P.O.Box 4000, NEW LISBON, WI. 53950;

13). Defendant Warden Douma was the Warden at NLCI. He was legally responsible for the overall operation of NLCI and the welfare, health and safety of all inmates at NLCI. He has acted under color of state law. He is liable for the constitutional violations set out in this complaint. He is sued in his official capacity. Defendant Warden Douma address was: Warden Douma, NLCI, P.O.Box 4000, NEW LISBON, WI. 53950.

14). Defendant Edward F. Wall is the Secretary of the Wisconsin Department of Corrections. He is also legally responsible for the overall operation of all Wisconsin state prisons. He is also legally responsible for the welfare, health and safety of all inmates. He has acted under color of state law. He is liable for the constitutional violations set out in this complaint. He is sued in his official capacity. Defendant Edward F. Wall address is: Edward F. Wall - Secretary, W.D.O.C., 3099 E. Washington Avenue , P.O. BOX 7925, Madison, WI 53707-7925;

15). Defendant RN Warner is the Health service Manager at NLCI Health Service Unit. She is responsible for the health services at NLCI. She has acted under color of state law. She is liable for the constitutional violations set out in this complaint. she is sued in her official capacity. Defendant Warner address is: P.O. Box 4000, New Lisbon, WI. 53950.

PREVIOUS LAWSUITS

16). Plaintiff has filed a lawsuit. case no. *2014-CV-747-jdp

EXHAUSTION OF ADMINISTRATIVE REMEDIES

17). Plaintiff Steed has exhausted his administrative remedies.

STATEMENT OF CLAIMS

RETALIATION

Plaintiff realleges and incorporate by reference paragraphs 1-17.

18). On 10-17-2014 plaintiff Steed filed a grievance against defendant Syed and HSU staff.

19). Between 10-17-2014 and 10-22-14 defendant Syed and HSU staff was contacted by the ICRS department concerning plaintiff's incident concerning his treatment.

20). Defendant Syed and HSU staff was notified of the grievance(complaint) filed by plaintiff Steed when the ICRS department contacted defendant Sted and HSU staff about plaintiff's grievance(complaint).

21). Then on 10-8-14 plaintiff Steed sent a HSU request to refill his ibuprofen. RN Johnson returned the refill slip stating that the ibuprofen was renewed.

22). Defendant Syed then intentionally retaliated against plaintiff Steed by sending plaintiff STEED a different medication called "Acetaminophen", in which defendant Syed knew would be ineffective and/or cause an allergic reaction.

23). Defendan Syed "adverse action" was so bad that it would stop and "average person" from continuing with their grievances.

24). These acts show a pattern of events demonstrating improper and intentional retaliation.

25). Defendant Syed intentionally acted with evil motive, reckless indifference and callous disregard to plaintiff Steed's First, Eigth and Fourteenth Amendment rights.

26). The actions of defendants Syed violated plaintiff Steed's rights and constituted retaliation under First Amendment to the United States constitution.

INADEQUATE MEDICAL CARE
(Filling Medication Orders)

Plaintiff realleges and incorporate by reference paragraphs 1-25.

27). The current system of filling medication orders at NLCI and throughout the Wisconsin department of Corrections(WDOC) poses a substantial risk of serious harm to me the plaintiff and similarly situated prisoners. the defendants Syed, Douma, Warner and Wall are aware of this risk but have failed to take reasonable steps to abate it.

28). The medication ordering process which handwritten prescriptions are faxed to the pharmacy results in delays and error.

29). DOC proscribers hand write medication orders on paper which are then faxed to the central pharmacy.

30). Refill orders are handled similarly with tear bar codes adheared to a page that is faxed.

31). There is to much time wasted in the process of proscribers handwriting the medication order, HSU[Health Service Unit] staff photocopy the oreder then faxes it to the central pharmacy.

32). Current fax orders are frequently difficult to read.

33). There are problems with illegibility of proscribers handwriting, confusion over the inmates/patients medication record or incompatibility of complex medications that leads to pharmacist intervention. This type of intervention slow down the medication order process significally. Medication errors which carry with them reverbarations of liability far into the future, are also a potential.

34). NLCI/WDOC medication ordering system places me and NLCI/WDOC inmates at a substantial risk of serious harm.

35). Plaintiff Steed usually takes ibuprofen more then 2 times a day, for chronic neck and back pain.

36). On 10-11-14 plaintiff Steed found out that this ibuprofen was discontinued.

37). Plaintiff's medication was discontinued without the plaintiff being physically examined.

38). Plaintiff received a HSU request form DOC - 3035 from RN Johnson stating that plaintiff medication ibuprofen was renewed.

39). Plaintiff did not receive ibuprofen until NEVER a total of 2 days, STILL TO THIS DAY NO IBUPROFEN.

40). This delay was untimely and has negatively affected the plaintiff.

41). The medication ordering system is fraught with delays and has negatively affected the plaintiff.

42). The medication ordering system at NLCI and throughtout the WOC is fraught with delays and negatively affects the WDOC inmates.

43). There are systemic and longstanding inadequancies in the medical care in NLCI and the entire WDOC prison system.

44). NLCI/WDOC medication ordering system places the plaintiff at a substantial risk of serious harm now and into the future.

45). Defendants Syed, Warner, Douma and Wall are subjectively aware that the medication ordering system poses a substantial risk of serious harm to me/inmates/patients.

46). Defendants Syed, Douma Warner and Wall knew of this risk but failed to take reasonable steps to abate it.

47). The risk of harm is "subjectively serious" and defendants Warner, Syed, Douma and Wall, was subjectively 'deliberate indifferent.

48). The plaintiff and similarly situated inmates will suffer irreparable harm if the form of continued medication errors and delays which will result in life - threatening risk, the exaceration of chronic and acute serious medical condition and unnecessary pain and suffering.

49). Defendant Douma, Syed, Warner and Wall had actual constructive knowledge and defendants knew or should have know of the conditions causing inadequate medical care.

50). Defendants Warner, wall, Douma and Syed knew that plaintiff Steed and other similarly inmates are being deprived of human basic needs to adequate medical care and defendants did not respond reasonably.

51). It was the duty of defendants Douma, Wall and **Warner** to provide adequate medical care.

52). There are deficiencies in the pharmacy system.

53). Plaintiff Steed is entitled to medical care for serious medical needs.

54). WDOC has known of the problems and its associated risk but has done nothing to safe guard a population of prisoners that collectively, takes thousands of medication dosages several times a day.

55). Defendants are very aware of Fylnn V. Doyle, Case No. 06-cv-537 (E.D. Wis. 2006) and Golden V. Baenen , Case No. 12-CV-1270 (E.D. Wis. 2012) which deals with medication orders.

56). The current process of faxing handwritten medication orders to the WDOC' central pharmacy should be replaced with a computerized proscriber order entry system(CPOE).

57). The plaintiff prescription medication was renewed and his medication was renewed as "ibuprofen" but he was sent A different medication that caused his mouth to become numb, and he experience agonizing cramps in his stomach, which followed with constant diarrhea.

58). NLCI/WDOC medication ordering system places prisoners at a substantial risk of serious harm to the plaintiff and defendants Douma, Wall have acted with deliberate indifference and failed to take reasonable steps to abate it and their failure to provide adequate medical care constituted cruel and unusual punishment and amounted to the unnecessary and wanton infliction of pain in violation of the Eight amendment to the United States constitution.

MEDICAL MALPRACTICE/NEGLIGENCE

Plaintiff realleges and incorporate by reference paragraphs 1-53.

59). On 10-8-14, I sent HSU a request for refill on my ibuprofen because it had ran out. Then on 10-10-14 RN Johnson returned the HSU request DOC - 3035 which stated your ibuprofen has been renewed. However defendant Syed sent down Acamininophen(tylenol. When CO Hinkley and CO Fultun gave me the tablets my mouth became numb, and I suffered agoninzing cramps in my stomach, which followed with constant diarrhea. I add this was strange because I never experienced that with ibuprofen. So on 10-10-2014, after I had taken the tablets again I asked CO Hinkley to let me see the name of those HE STATED IT'S IBUPROFEN.

tablets. Upon seeing the name I was confused for it did not state ibuprofen for which I was told would be sent down. This was totally failure to carry out medical orders, and failure to provide prescribed medication. Additionally, due to defendant Syed remiss in his duties as a license physician to followed medical protocol for not properly questioning plaintiff Steed or examine plaintiff Steed to see if he was allergic to medication or not and plaintiff Steed. Defendant Steed prescribed the acetaminophn on 10-9-14, which stated plaintiff Steed should take 2 500 mgs tablets am and pm or every 4 hours as needed for pain. On several occasions between 10-9-2014 til PRESENT, IT was still acetaminiophen, never was it explained to me why it was changed by defendant Syed. I have been prescribed ibuprofen in the past due to chronic neck pains that I still endure now for the Acetaminophen not strong enough. This cause Plaintiff steed to experience severe pain and caused his systems to worsen and caused him unnecessary infliction of pain.

60). Plaitiff Steed has chronic neck and back pain and on 10-10-14 RN Johnson signed and dated the HSU request DOC 3035 for plaintiff steed. Which stated ibuprofen has been renewed 500mg is an important component of delivering adequate health care for Steed who suffers back and neck spasms. Accordingly, defendant Syed recklessly disregarded risk of harm in failing to inform Steed of the adverse consequences or allergic reaction of medication and to dispense prescribed medication.

61). This court has stated that plaintiff Steed has stated a Wisconsin-law negligence claim (opinionn and order dated July 16, 2015, p. 1) and at best plaintiff has stated a malpractice claim against Syed (id at p. 4).

62). Defendant Syed actions has constitued negligence/malpracitce and the plaintiff has suffered physical injury as well as unnecessary infliction of harm by defendant Syed actions. (See paragraphs 1-62).

CAUSE OF ACTION

63). The retaliation by defendant Syed for plaintiff Steed filing a grievance violated plaintiff steed's rights and constituted intentional retaliation under the a First Amendment to the United States constitution. (See Amended Verified 42 U.S.C. § 1983 Civil Rights Complaint at paragraphs 18 through 27).

64). By defendants Douma, Warner, Syed and Wall deliberate indifference to the current medication ordering system at

NLCI/WDOC and their failure to act and respond reasonably places the plaintiff Steed at a substantial risk of serious harm and in imminent danger and constitutes deliberate indifference to plaintiff's serious medical needs in violation of plaintiff Steed's rights to adequate medical care and constitutes cruel and unusual punishment and amounts to the unnecessary infliction of pain in violation of the Eighth Amendment to the United States constitution. (See id. at ¶¶ 27-58). See THE DOC DAI Policy 500.80.11(1)(1)(A-E).

PRAYER OF RELIEF

INJUNCTION

65). Order defendants Wall, Douma, Warner and Syed to implement the computerized prescriber order entry (CPOE) system to ensure timely and accurate medication order processing.

DECLARATORY RELIEF

66). Issue a declaratory relief stating that the acts and omissions described herein violated plaintiff's rights under the constitution and laws of the United States.

DAMAGES

67). Award nominal damages for $1.00 against defendant Syed, in his individual capacity for Retaliation and the denial of adequate medical care;

68). Award Compensatory damages for $100,000, against defendant Syed for negligence and malpractice and $50,000 for the retaliation that caused physical injury also;

69). Award $1.6 Million in punitive damages against defendant Syed.

JURY TRIAL DEMAND

70). A jury trial on all issues.

VERIFICATION

71). I have read the foregoing complaint and hereby verify that the matters alleged herein are true and correct, except as to the matters alleged on information and belief, and as to those I believe to be true. I Hereby certify under 28 U.S.C. § 1746, penalty of perjury, that the above is true and correct.

Executed at Portage, WI on 8-3-2015.

ROBERT STEED, Robert Steed #342217

Submitted on August 3, 2015
I sent it to mailbox. 8