

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

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LAMONT WALKER,

Plaintiff,

v.

OPINION & ORDER

DR. BURTON COX, SONYA ANDERSON,  
JOLINDA WATERMAN, CARRIE SUTTER,  
JONI SHANNON-SHARPE, and JERRY SWEENEY,

15-cv-686-jdp

Defendants.

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Plaintiff Lamont Walker, an inmate at the Wisconsin Secure Program Facility, has filed this proposed lawsuit in which he alleges that prison officials have violated his Eighth Amendment right against cruel and unusual punishment by failing to provide him with an extra mattress or other accommodation for the severe back pain and stiffness he suffers. Plaintiff has paid an initial partial payment of the filing fee for this lawsuit, as previously directed by the court.

The next step in this case is to screen plaintiff's complaint.<sup>1</sup> In doing so, I must dismiss any portion that is legally frivolous, malicious, fails to state a claim upon which relief may be granted, or asks for money damages from a defendant who by law cannot be sued for money damages. 28 U.S.C. §§ 1915 and 1915A. Because plaintiff is a pro se litigant, I must read his allegations generously. *Haines v. Kerner*, 404 U.S. 519, 521 (1972) (per curiam).

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<sup>1</sup> Plaintiff has filed a series of motions asking the court to issue a ruling in this case. Dkt. 11-13. Those motions are granted.

After reviewing plaintiff's complaint with these principles in mind, I conclude that he may proceed on Eighth Amendment claims against defendants in their individual and official capacities.

### ALLEGATIONS OF FACT

Plaintiff Lamont Walker is an inmate at the Wisconsin Secure Program Facility (WSPF). For at least the past several years, plaintiff has been housed in segregation. Plaintiff suffers from chronic back pain. The mattresses in segregation cause plaintiff severe back pain and stiffness.

As far back as 2011 or 2012, plaintiff complained to medical staff, including defendant Dr. Burton Cox, about the pain he suffers from the mattresses. Cox acknowledges that plaintiff had stiffness in his back, but would not provide him with an extra mattress or other medical restriction, such as an ice bag or back brace. Cox prescribed physical therapy even after it was clear that the therapy was not helping plaintiff.

At some point, plaintiff's requests for medical restrictions started being sent to a "special needs committee." Plaintiff's requests were ultimately denied. Several members of the committee, defendants Jerry Sweeney, Carrie Sutter, and Joni Shannon-Sharpe, do not have medical training. Plaintiff believes that the non-medical staff members on the committee are driving the decisions denying him medical restrictions, and that the members of the committee with medical training, defendants Jolinda Waterman (the Health Services Unit manager) and Sonya Anderson (a registered nurse), are letting it happen.

Because plaintiff has been denied another mattress or other medical restriction, he continues to suffer severe pain and back stiffness.

## ANALYSIS

Plaintiff brings claims that his Eighth Amendment right against cruel and unusual punishment was violated by defendants' failure to properly treat his back problems. 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). A medical need may be serious if it is life-threatening, carries risks of permanent serious impairment if left untreated, results in needless pain and suffering, significantly affects an individual's daily activities, *Gutierrez v. Peters*, 111 F.3d 1364, 1371-73 (7th Cir. 1997), or otherwise subjects the prisoner to a substantial risk of serious harm, *Farmer v. Brennan*, 511 U.S. 825, 847 (1994).

Plaintiff's allegations about his severe back pain are sufficient to show a serious medical need. He also alleges that defendant Cox continued to provide him treatment that he knew was not working, which is enough to state a claim for relief against Cox. *See Gonzalez v. Feinerman*, 663 F.3d 311, 314 (7th Cir. 2011) (physicians are "obligated not to persist in ineffective treatment").

Plaintiff's claims against the five remaining defendants are more complex. Plaintiff seems to be saying that all of these defendants were on the "special needs committee" that denied his requests, so part of his claim is that each of the remaining defendants was personally involved in the decision to deny his requests. I conclude that this is enough to state claims for damages and injunctive relief against each of these defendants. But plaintiff also seeks claims against defendants in their official capacity and seems to take issue with

prison policy itself—he complains that he has been harmed by non-medical staff being allowed to make the decisions about medical issues concerning an extra mattress or other accommodation. I will also allow plaintiff to proceed on a claim for injunctive relief against the defendants on the committee in their official capacity.

## ORDER

IT IS ORDERED that:

1. Plaintiff Lamont Walker's motions for a ruling, Dkt. 11-13, are GRANTED.
2. Plaintiff is GRANTED leave to proceed on Eighth Amendment medical care claims against defendants Dr. Burton Cox, Jerry Sweeney, Carrie Sutter, Joni Shannon-Sharpe, Jolinda Waterman and Sonya Anderson.
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 40 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' attorney a copy of every paper or document that he files with the court.
5. 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.
6. If plaintiff is transferred or released while this case is pending, it is his 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 case may be dismissed for his failure to prosecute it.

Entered June 22, 2016.

BY THE COURT:

/s/

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JAMES D. PETERSON  
District Judge