

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

AARON TEMPLETON,

Plaintiff,

v.

OPINION and ORDER

SCOTT PARKS, UNKNOWN MEDICAL STAFF,
WELLPATH, and MEND CORR. CARE,

23-cv-109-jdp

Defendants.

In response to the court's order, pro se plaintiff Aaron Templeton has filed an amended complaint alleging that defendants knowingly housed him with a prisoner who had tuberculosis, which caused Templeton to contract this disease. Dkt. 31. Because Templeton is incarcerated, I must screen the amended complaint under 28 U.S.C. § 1915A and dismiss any part of it that is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks money damages from an immune defendant. I must accept Templeton's allegations as true and construe them generously, holding the amended complaint to a less stringent standard than one a lawyer drafts. *Arnett v. Webster*, 658 F.3d 742, 751 (7th Cir. 2011). I will allow Templeton to proceed on a Fourteenth Amendment medical care claim against defendant Scott Parks, defendants Unknown Medical Staff, and Deb Gleason, whom I will direct the clerk of court to add as a defendant. I will remove the other defendants from this case.

ALLEGATIONS OF FACT

During the coronavirus pandemic, Templeton was detained at the Marathon County Jail. A prisoner with tuberculosis, John Lee, was housed with Templeton. Defendant Parks (sheriff) did not allow prisoners to use masks. Parks and Gleason took the prisoners' cleaning

supplies because they thought that the supplies could spread the coronavirus. Gleason told the prisoners that they were losing their right to file grievances, though they could make oral complaints to the guards and medical staff. Templeton complained to the medical staff, but they told him that they couldn't talk about another prisoner and to wait to see a doctor.

Templeton became ill and a doctor (apparently offsite) diagnosed him with tuberculosis. Templeton's tuberculosis was ultimately cured, but his recovery took 18 months and he suffered severe side effects, some of which are irreversible.

Defendants Wellpath and Mend Correctional Care are "set up to hand out meds." These defendants "push off medical issues" until the prisoner is released from jail. Nurses practiced medicine on prisoners without a doctor's supervision.

ANALYSIS

The Fourteenth Amendment's objective reasonableness standard governs a pretrial detainee's medical care claim. *McCann v. Ogle Cty., Ill.*, 909 F.3d 881, 886 (7th Cir. 2018). To state a medical care claim, a detainee must allege that: (1) the defendants acted intentionally, knowingly, or recklessly when they considered the consequences of their actions; and (2) the defendants' actions were objectively unreasonable. *See id.*

I will allow Templeton to proceed on this claim against Parks. Templeton's allegations suggest that Parks allowed him to be housed with Lee and stopped him from using masks, which contributed to his contracting tuberculosis. I will allow Templeton to proceed on this claim against Gleason because his allegations suggest that she knew that he was housed with

Lee and carried out Parks's order to stop the prisoners from using masks.¹ Templeton's allegation that Parks and Gleason took his cleaning supplies even though they knew that he was housed with Lee also supports this claim. Parks and Gleason ostensibly made this decision to prevent the coronavirus from spreading, but I can infer that this action was unreasonable considering that Lee was housed with Templeton.

I will not allow Templeton to proceed against Gleason based on the allegation that she stopped the prisoners from filing grievances. Templeton's allegations suggest that Gleason eliminated paper grievances to stop the coronavirus from spreading, and there's no basis to infer that Templeton's inability to file a written grievance caused him to contract tuberculosis. Templeton's allegations suggest that he could, and did, make oral complaints to prison staff for medical care.

I will allow Templeton to proceed against the unnamed medical staff based on the allegation that they ignored his complaints about being housed with Lee. I can infer that it's objectively unreasonable to disregard a prisoner's complaint about being housed with a tuberculosis-positive prisoner, and that this disregard contributed to Templeton's contracting tuberculosis. Templeton has already received instructions on how to use discovery requests to identify the names of the Doe defendants. I will extend the deadline to file a further amended complaint naming the Doe defendants to January 20, 2023.

I will not allow Templeton to proceed against Wellpath and Mend Correctional Care. Templeton alleges that these defendants have a policy to: (1) hand out medication; (2) put off medical issues until prisoners are released; and (3) allow nurses to practice medicine without a

¹ I am treating Gleason as a defendant even though Templeton didn't name her in the amended complaint's caption.

doctor's supervision. But Templeton hasn't explained how this policy played a role in his contracting tuberculosis. Templeton hasn't alleged that any nurse prescribed him medication, much less explained how receiving medication from a nurse caused him to contract tuberculosis. Templeton's position may be that, had a doctor supervised nursing staff at the jail, his tuberculosis would have been diagnosed sooner. But this allegation is speculative, without specific facts needed to support a claim under 42 U.S.C. § 1983. *See Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). Templeton alleges that nursing staff sent him to see a doctor at an offsite facility, where he was diagnosed with tuberculosis. So Templeton's allegations don't suggest that Wellpath and Mend Correctional Care's policies stopped doctors from examining prisoners. Even if nurses should have sent Templeton offsite sooner, that allegation would suggest that the nurses were individually liable, not that Wellpath and Mend Correctional Care had unconstitutional policies that caused his injury.

Templeton mailed a part of his amended complaint to the court in one envelope and the other part in a separate envelope. Templeton should not split his filings into separate envelopes in the future because this needlessly complicates the process of entering them onto the docket.

ORDER

IT IS ORDERED that:

1. Plaintiff Aaron Templeton is GRANTED leave to proceed on a Fourteenth Amendment medical care claim against defendant Scott Parks, defendants Unknown Medical Staff, and Deb Gleason.
2. The clerk of court is directed to add Deb Gleason as a defendant.

3. The clerk of court is directed to ensure that the United States Marshals Service serves defendant Gleason with a copy of plaintiff's amended complaint and this order. Plaintiff should not attempt to serve defendant on his own at this time.
4. Wellpath and Mend Correctional Care are to be removed as defendants.
5. The deadline to file a second amended complaint naming the Doe defendants is extended to January 20, 2023.
6. The court expects the parties to treat each other and the court with respect. Any abusive or threatening comments or conduct may result in sanctions, including entry of judgment against the offending party.

Entered November 20, 2023.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge