

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
BATESVILLE DIVISION**

**FRANCES RENEE MILLER/PERRY,
ADC #708998**

PLAINTIFF

v.

CASE NO. 1:09cv00065 BSM/HLJ

DONALD ANDERSON, et al.

DEFENDANTS

ORDER

The court has received proposed findings and recommendations from United States Magistrate Judge Henry L. Jones, Jr. There have been no objections. After reviewing the proposed findings and recommendations, and reviewing the record *de novo*, it is concluded that the proposed findings and recommendations should be, and hereby are, rejected.

Plaintiff, Frances Renee Miller/Perry (“Miller/Perry”), has stated a claim with respect to defendants Correctional Medical Services and Marry Matthews/Decker. *Pro se* complaints must be given liberal construction. *Haines v. Kerner*, 404 U.S. 519, 520 (1972). In her amended complaint Miller/Perry alleges that “Marry Matthews” was among a group of nurses who would leave her in her cell during seizures, failing to come to her aid for thirty minutes to an hour. They would also laugh at her during her seizures. She further claims that Marry Matthews/Decker, and other named defendants, violated her Eighth Amendment rights by leaving her in her cell during seizures, discontinuing her seizure medications, refusing her showers and recreation time, refusing to adjust her medication, and refusing to send her medications with her to court. “Nurse Mathews” is mentioned in Miller/Perry’s August 29, 2007 grievance, which is attached to the amended complaint. In the grievance

Miller/Perry states concerns that her tongue is “all bit up,” and that she might have a heart attack. She indicates that she has spoken with “Mathews” about her concerns, but has not received any attention. In a June 3, 2008 grievance, Miller/Perry states

When Nurse Mathews tried and denied my seizure meds for 1 entire day stating she will be ok by Tomorrow that is playing with the value of my human Life, And if any thing happens security winds up taken care of me After medical leaves and don’t follow protocol.

Liberally construing the complaint, it seems that when Miller/Perry refers to “Marry Matthews,” “Mathews,” or “Nurse Mathews,” she is actually referring to named separate defendant Marry Matthews/Decker. Her complaint sufficiently states a claim against Marry Matthews/Decker.

Miller/Perry’s complaint also makes specific allegations against Correctional Medical Services. She maintains that Correctional Medical Services failed to send her medications when she was transported to Clark County for a jury trial. Miller/Perry seems to allege that this led to her hospitalization due to a severe seizure. Attached to the amended complaint is a prescription unavailability document in which Miller/Perry states that “When I got to court [Correctional Medical Services] never send enough of my meds. . . . last time y’all didn’t send enough of my seizure meds. I winded up In the hospital.” She further claims that Correctional Medical Services, and other named defendants, violated her Eighth Amendment rights by leaving her in her cell during seizures, discontinuing her seizure medications, refusing her showers and recreation time, refusing to adjust her medication, and refusing to send her medications with her to court. Miller/Perry’s complaint sufficiently states a claim

against Correctional Medical Services.

Accordingly, the proposed findings and recommendations are rejected. Service is therefore appropriate for defendants Marry Matthews/Decker and Correctional Medical Services. The Clerk of the Court shall prepare summons for the defendants and the United States Marshal is hereby directed to serve a copy of the original and amended complaints [Doc. Nos. 1, 7] and summons on defendants in care of Humphries and Lewis Law Firm, P.O. Box 20670, White Hall, AR 71612, without prepayment of fees and costs or security therefore.

IT IS SO ORDERED this 14th day of April, 2010.

Brian S. Miller
UNITED STATES DISTRICT JUDGE