IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION

KEVIN MARTIN MITCHELL, SR.
ADC #500399   **PLAINTIFF**

v.   **No. 3:13-cv-238-DPM-JTR**

LARRY MILLS, Sheriff, Poinsett County
Detention Center and DOYLE RAMEY,
Officer, Poinsett County Detention Center   **DEFENDANTS**

ORDER

1.   Mitchell has filed a *pro se* § 1983 complaint alleging that Mills and

Ramey violated his constitutional rights while he was a prisoner in the

Poinsett County Detention Center. The Court must screen his complaint. 28

U.S.C. § 1915A.

2.   Mitchell alleges that Officer Ramey gave him medication that was

prescribed for his cell mate. *№ 2 at 4.* After the error was discovered,

Mitchell was taken to a hospital for unspecified medical treatment. A § 1983

claim for constitutionally inadequate medical care must be based on

deliberate indifference, not a mere negligent act. *Langford v. Norris*, 614 F.3d

445, 460 (8th Cir. 2010); *Gibson v. Weber*, 433 F.3d 642, 646 (8th Cir. 2006);

-1-

Zentmyer v. Kendall County, Illinois, 220 F.3d 805, 811 (8th Cir. 2000). Nothing in the complaint suggests that Ramey acted with deliberate indifference when he accidentally gave Mitchell the wrong medication on a single occasion. Mitchell therefore has not pleaded a plausible § 1983 claim against Ramey.

3. Mitchell has not alleged any facts suggesting that Sheriff Mills personally violated his constitutional rights in any manner. *Ashcroft v. Iqbal*, 556 U.S. 662, 676 (2009); *Parrish v. Ball*, 594 F.3d 993, 1002 (8th Cir. 2010). He therefore has failed to plead a plausible § 1983 claim for relief against Mills.

* * *

Mitchell's complaint is dismissed without prejudice for failure to state a claim. The dismissal constitutes a strike. The Court certifies that an *in forma pauperis* appeal from this Order or the accompanying Judgment would not be taken in good faith. 28 U.S.C. § 1915(a)(3) and (g).

So Ordered.

DPMarshall Jr.

D.P. Marshall Jr.
United States District Judge

20 December 2013