

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

MICHAEL MOLDAN

PLAINTIFF

V.

CASE NO. 3:16-CV-00041 BRW/BD

POINSETT COUNTY

DEFENDANT

ORDER

Plaintiff Michael Moldan, an inmate at the Poinsett County Detention Center (“Detention Center”), filed this case *pro se* under 42 U.S.C. § 1983. (Docket entries #1 and #2) In his complaint, Mr. Moldan claims that he is being mistreated by staff because he is not from the area. Specifically, Mr. Moldan alleges: he has been denied a full sixty minutes outside of his cell on a daily basis; he has been denied his mail on days when the mail runs; and he has been held in a cell with no lights and cold air, causing him to become ill, and he does not have money to see a doctor.

Mr. Moldan seeks injunctive and monetary relief. It is unclear from the complaint whether Mr. Moldan can state a federal claim to relief. He will have an opportunity to amend his complaint.

First, Mr. Moldan names Poinsett County as a Defendant, but he has not alleged that a Poinsett County policy, custom, or practice led to his injury. A county can be held liable in § 1983 lawsuit only if an official policy, custom, or practice caused the plaintiff’s injury. *Jenkins*, 557 F.3d at 632; *Grayson v. Ross*, 454 F.3d 802, 810-11 (8th Cir. 2006). A “policy,” for purposes of § 1983, is “an official policy, a deliberate choice

of a guiding principle or procedure made by an official with authority.” *Mettler v. Whitley*, 165 F.3d 1197, 1204 (8th Cir. 1999). “Custom” means a “persistent, widespread pattern of unconstitutional conduct of which officials have notice and subsequently react with deliberate indifference or tacit authorization.” *Johnson v. Outboard Marine Corp.*, 172 F.3d 531, 536 (8th Cir. 1999).

Second, Mr. Moldan must state how much outdoor recreational time he has been allowed and identify the individuals responsible for denying him outside recreational time.

Third, Mr. Moldan must explain whether his personal mail is being withheld from him and identify the individuals responsible for that conduct.

Finally, in his amended complaint, Mr. Mouldan must explain whether he has been denied medical care. If he seeks to pursue a claim for lack of medical care, he must specifically identify those individuals who he believes have failed to address his medical needs. He should explain how each of those individuals caused him to suffer injury.

Mr. Moldan has thirty days to file his amended complaint. His failure to amend his complaint may result in the dismissal of his claims, without prejudice.

DATED this 11th day of February, 2016.


UNITED STATES MAGISTRATE JUDGE