

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION**

ROBERT WILLIAM AVERY

PLAINTIFF

V.

CASE NO. 5:20-CV-05152

**DR. SAEZ, Turn Key Health Clinics, LLC;
FLINT JUNOD, CEO, Turn Key Health Clinics,
LLC; JOHN DOE MEDICAL DIRECTOR,
Turn Key Health Clinics; and NURSE FRAN
INFANTE, Turn Key Health Clinics, LLC**

DEFENDANTS

OPINION AND ORDER

Robert W. Avery, currently an inmate of the Wrightsville Unit of the Arkansas Division of Correction, has filed this *pro se* civil rights action under 42 U.S.C. § 1983. While he was incarcerated in the Benton County Detention Center from March 12, 2018, until August 29, 2018, Avery contends the Defendants exhibited deliberate indifference to his serious dental and medical needs by: (1) not taking him to a dentist for an abscessed tooth despite the fact that antibiotics were not working; (2) failing to provide him with support hose and/or bed rest for varicose veins; and (3) using monetary reasons to deny him medication for bipolar disorder, post-traumatic stress disorder, and anxiety.

Avery presented these same claims to the Court in *Avery v. Turn Key Health Clinics LLC, et al.*, 5:18-cv-05075. On February 12, 2020, summary judgment was granted in favor of the Defendants, and the case was dismissed with prejudice. Avery appealed. The case is currently pending before the Court of Appeals for the Eighth Circuit in *Avery v. Turn Key Health Clinics, et al.*, Civil No. 20-1608. The case is fully

briefed with Avery having filed his reply brief on August 21, 2020. Avery cannot end-run the appeal process by filing another case addressing the same facts and claims. This case is dismissed. Avery will need to follow his appeal through to the Eighth Circuit's affirmance or reversal of the summary judgment order.

IT IS SO ORDERED on this 22nd day of September, 2020.



TIMOTHY L. BROOKS
UNITED STATES DISTRICT JUDGE