

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION**

MATTHEW GILLIS,

Plaintiff,

vs.

5:08CV362-RH/AK

DR. GUZMAN, et al,

Defendants .

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ORDER

This cause is before the court upon Plaintiff's filing of a civil rights complaint under 28 U.S.C. § 1331 alleging deliberate indifference by several of the medical staff at the Federal Correctional Institution at Marianna, Florida. (Doc. 1). Leave to so proceed has been granted in a separate order. (Doc. 5).

Plaintiff alleges that he injured his ankle and was told by Defendant Guzman that it could not be fixed, and other medical personnel, Mr. Seay and Ms. Pelt, refused to provide medical care as well. Plaintiff should provide more factual details on these claims to assist the Court in reviewing them and to enable the Defendants to respond. It is important that he provide the dates of his requests for help, and as many details as

he can recall, about each defendant's particular response to his requests. Also, he claims that Ms. Gardner suggested a specialist and prayer, but it is unclear what her position is or how she was indifferent to his medical needs by suggesting these things, unless he claims she was in a position to provide such care and refused. Again, more details are necessary. Also, he notes that his back brace is broken and needs replacement, but he has not named a defendant whom he alleges is responsible for this and ultimately denied him this type of medical care.

Medical claims under the Eighth Amendment have an objective and subjective component, each of which additionally is considered to encompass two subsidiary requirements. Taylor v. Adams, 221 F.3d 1254, 1258 (11th Cir. 2000), cert. denied, 531 U.S. 1077, 121 S.Ct. 774, 147 L.Ed.2d 673 (2001). The "objective component" of the Eighth Amendment standard requires a determination whether the alleged wrongdoing was objectively harmful enough to establish a constitutional violation. See Wilson v. Seiter, 501 U.S. 294, 303, 111 S.Ct. 2321, 2326, 115 L.Ed.2d 271 (1991). This objective component varies with the situation and the conduct in question and is responsive to "contemporary standards of decency." Estelle v. Gamble, 429 U.S. 97, 103, 97 S.Ct. 285, 291, 50 L.Ed.2d 251 (1976); see also Rhodes v. Chapman, 452 U.S. 337, 346, 101 S.Ct. 2392, 2399, 69 L.Ed.2d 59 (1981). An objectively serious deprivation requires (1) showing an objectively "serious medical need." Estelle, 429 U.S. at 104. A serious medical need is one that, if left unattended, "pos[es] a substantial risk of serious harm." Farmer v. Brennan, 511 U.S. 825, 834, 114 S.Ct. 1970, 1977, 128 L.Ed.2d 811 (1994). In addition, an objectively serious deprivation requires (2) showing the response made by the defendant to that need was so deficient as to constitute "an

unnecessary and wanton infliction of pain" and not simply "negligen[ce] in diagnosi[s] or treat[ment]," or even "[m]edical malpractice" actionable under state law. Estelle, 429 U.S. at 105-06 (internal quotation marks omitted). See Taylor, 221 F.3d at 1257; see also Farrow v. West, 320 F.3d 1235, 1243 (11th Cir. 2003). To show the required subjective intent to punish the plaintiff must demonstrate that the defendant acted with an attitude of "deliberate indifference." Estelle, 429 U.S. at 105. This is defined as requiring (1) an "aware[ness] of facts from which the inference could be drawn that a substantial risk of serious harm exists" and (2) the actual "draw[ing of] the inference." Farmer, 511 U.S. at 837. In sum, in a claim of denial of medical attention under the Eighth Amendment "[u]ltimately, there are [] four requirements: an objectively serious need, an objectively insufficient response to that need, subjective awareness of facts signaling the need, and an actual inference of required action from those facts." Taylor, 221 F.3d at 1258.

To show the factors set forth above, Plaintiff must name the Defendants and provide details such as dates of when he asked for medical care and from whom, and dates when he received it and from whom.

In amending, Plaintiff should carefully review the foregoing to determine whether he can present allegations sufficient to state a cause of action under the relevant law. If Plaintiff is able to file an amended complaint, he must name as Defendants only those persons who are responsible for the alleged constitutional violations. Plaintiff must place their full names in the style of the case on the first page of the civil rights complaint form and in the other appropriate sections of the form. Further, Plaintiff should clearly describe how each named Defendant is

involved in each alleged constitutional violation. In civil rights cases, more than conclusory and vague allegations are required to state a cause of action. See, e.g., Fullman v. Graddick, 739 F.2d 553, 556-57 (11th Cir. 1984). In presenting his claims, Plaintiff must set forth each allegation in a separately numbered paragraph, as it is essential that the facts relating to each Defendant be set out clearly and in detail.

To amend his complaint, Plaintiff must completely fill out a new civil rights complaint form, marking it "Amended Complaint." Plaintiff is advised that the amended complaint must contain all of Plaintiff's allegations and should not in any way refer to the original or amended complaints. An amended complaint completely replaces all previous complaints and all earlier complaints are disregarded. N.D. Fla. Loc. R. 15.1. Plaintiff should file the amended complaint in the Court and keep one identical copy for himself. Plaintiff need not file service copies until instructed to do so by the court.

Accordingly, it is hereby

ORDERED:

1. The clerk of court shall forward to Plaintiff another complaint form for federal prisoners filing under 28 U.S.C. §1331.
2. Plaintiff must respond to this order by **February 23, 2009**.
3. **Failure of Plaintiff to respond to this order or submit the requested**

information or explain his inability to do so will result in a recommendation to the District Judge that this action be dismissed.

DONE AND ORDERED this 26th day of January, 2009.

s/ A. KORNBLUM

ALLAN KORNBLUM
UNITED STATES MAGISTRATE JUDGE