

14-1028 Woods v. Mans

**MERIT REVIEW:** The Court is required by 28 U.S.C. §1915A to “screen” Plaintiff’s Complaint, and through such process to identify and dismiss any legally insufficient claim, or the entire action if warranted. A claim is legally insufficient if it “(1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or (2) seeks monetary relief from a defendant who is immune from such relief.” 28 U.S.C. §1915A. Plaintiff files his complaint alleging Eighth Amendment violations by Corrections Officer Mans and Lt. Hitchens. Plaintiff claims that on 11/20/13, Officer Mans used excessive and unjustifiable force against him. On that date the two allegedly exchanged words at which time Mans shoved Plaintiff into his cell causing Plaintiff to strike his head on the wall. Plaintiff claims that Mans repeatedly kicked him in the abdomen and groin. Lt. Hitchens was called. Plaintiff asked Hitchens to allow him to be seen in the medical unit. Hitchens denied this request. Plaintiff claims that he urinated blood for 3 days and has suffered such anxiety that he is unable to sleep and has been subject to bed wetting. Plaintiff states a claim, at this juncture for excessive force on the part of Mans and deliberate indifference to a serious medical need on the part of Hitchens and, perhaps, Mans. This case shall proceed solely on the federal claim(s) identified herein. Any claims not identified will not be included in the case, except in the Court’s discretion upon motion by a party for good cause shown, or by leave of court pursuant to Federal Rule of Civil Procedure 15. The Clerk is directed to send to each Defendant pursuant to this District’s internal procedures: 1) a Notice of Lawsuit and Request for Waiver of Service; 2) a Waiver of Service; 3) a copy of the Complaint; and 4) a copy of this Order. If a Defendant fails to sign and return a Waiver of Service to the Clerk within 30 days after the Waiver is sent, the Court will take appropriate steps to effect formal service on that Defendant and will require that Defendant pay the full costs of formal service pursuant to Federal Rule of Civil Procedure 4(d)(2). If a Defendant no longer works at the address provided by Plaintiff, the entity for which Defendant worked at the time identified in the Complaint shall provide to the Clerk Defendant’s current work address, or, if not known, Defendant’s forwarding address. This information will be used only for purposes of effecting service. Documentation of forwarding addresses will be maintained only by the Clerk and shall not be maintained in the public docket nor disclosed by the Clerk. Defendants shall file an answer within the prescribed by Local Rule. A Motion to Dismiss is not an answer. The answer it to include all defenses appropriate under the Federal Rules. The answer and subsequent pleadings are to address the issues and claims identified in this Order. Plaintiff shall serve upon any Defendant who has been served, but who is not represented by counsel, a copy of every filing submitted by Plaintiff for consideration by the Court, and shall also file a certificate of service stating the date on which the copy was mailed. Any paper received by a District Judge or Magistrate Judge that has not been filed with the Clerk or that fails to include a required certificate of service will be stricken by the Court. Once counsel has appeared for a Defendant, Plaintiff need not send copies of filings to that Defendant or to that Defendant’s counsel. Instead, the Clerk will file Plaintiff’s document electronically and send notice of electronic filing to defense counsel. The notice of electronic filing shall constitute notice to Defendant pursuant to Local Rule 5.3. If electronic service on Defendants is not available, Plaintiff will be notified and instructed accordingly. Counsel for Defendants is hereby granted leave to depose Plaintiff at Plaintiff’s place of confinement. Counsel for Defendants shall arrange the time for the depositions. Plaintiff shall immediately notice the Court of any change in mailing address or phone number. The Clerk is directed to set an internal court deadline 60 days from the entry of this Order for the Court to check on the status of service and enter scheduling deadlines.