

Plaintiff alleges that he is a federal pretrial detainee being housed in the Fulton County Jail. Having suffered from a long history of mental health problems, Plaintiff is currently taking Trazadone and Diazepam, but he is still experiencing “depression, mood swings, an inability to focus, and an inability to quiet the noise in my head.” (Complaint p. 6.) Defendants have allegedly denied Plaintiff’s requests to speak to a psychiatrist or other mental health professional regarding the adjustment of his medications and his continuing difficulties.

Deliberate indifference to an inmate’s serious mental health need violates Plaintiff’s constitutional rights. Townsend v. Cooper, 759 F.3d 678, 689 (7th Cir. 2014). A serious mental health need can be reasonably inferred from Plaintiff’s description of his history and current difficulties. Deliberate indifference is more difficult to infer. Deliberate indifference is more than negligence—deliberate indifference is the conscious disregard of a known and substantial risk of serious harm to an inmate’s health. Id. That determination requires a more developed factual record, however, so this case will proceed for service.

Plaintiff should be aware that only those individuals who are personally responsible for denying him needed treatment can be liable. The Jail administrators and Advanced Correctional Healthcare are not liable simply because they employ the individuals who have denied Plaintiff the care he needs. Kuhn v. Goodlaw, 678 F.3d. 552, 555 (7th Cir. 2012)(“§ 1983 liability is premised on the wrongdoer's personal responsibility”); Chavez v. Illinois State Police, 251 F.3d 612, 651 (7th Cir. 2001)(no respondeat superior liability under § 1983). They might be liable if they instituted a policy which caused the denial of care, or if they were personally involved in that denial. Hahn v. Walsh, 762 F.3d 617 (7th Cir. 2014). For now, all Defendants will remain in the case, but Plaintiff should be aware that he may need to name as Defendants the individual health professionals who have denied him a consultation with a mental health specialist.

IT IS THEREFORE ORDERED:

1) Pursuant to its merit review of the Complaint under 28 U.S.C. § 1915A, the Court finds that Plaintiff states a claim for deliberate indifference to his serious mental health needs. This case proceeds solely on the claims identified in this paragraph.

Any additional claims shall not be included in the case, except at the Court's discretion on motion by a party for good cause shown or pursuant to Federal Rule of Civil Procedure 15.

2) This case is now in the process of service. Plaintiff is advised to wait until counsel has appeared for Defendants before filing any motions, in order to give Defendants notice and an opportunity to respond to those motions. Motions filed before Defendants' counsel has filed an appearance will generally be denied as premature. Plaintiff need not submit any evidence to the Court at this time, unless otherwise directed by the Court.

3) The Court will attempt service on Defendants by mailing each Defendant a waiver of service. Defendants have 60 days from the date the waiver is sent to file an Answer. If Defendants have not filed Answers or appeared through counsel within 90 days of the entry of this order, Plaintiff may file a motion requesting the status of service. After Defendants have been served, the Court will enter an order setting discovery and dispositive motion deadlines.

4) With respect to a Defendant who no longer works at the address provided by Plaintiff, the entity for whom that Defendant worked while at that address shall provide to the Clerk said

Defendant's current work address, or, if not known, said Defendant's forwarding address. This information shall be used only for effectuating service. Documentation of forwarding addresses shall be retained only by the Clerk and shall not be maintained in the public docket nor disclosed by the Clerk.

5) Defendants shall file an answer within 60 days of the date the waiver is sent by the Clerk. A motion to dismiss is not an answer. The answer should include all defenses appropriate under the Federal Rules. The answer and subsequent pleadings shall be to the issues and claims stated in this Opinion. In general, an answer sets forth Defendants' positions. The Court does not rule on the merits of those positions unless and until a motion is filed by Defendants. Therefore, no response to the answer is necessary or will be considered.

6) This District uses electronic filing, which means that, after Defense counsel has filed an appearance, Defense counsel will automatically receive electronic notice of any motion or other paper filed by Plaintiff with the Clerk. Plaintiff does not need to mail to Defense counsel copies of motions and other papers that Plaintiff has filed with the Clerk. However, this does not apply to discovery

requests and responses. Discovery requests and responses are not filed with the Clerk. Plaintiff must mail his discovery requests and responses directly to Defendants' counsel. Discovery requests or responses sent to the Clerk will be returned unfiled, unless they are attached to and the subject of a motion to compel. Discovery does not begin until Defense counsel has filed an appearance and the Court has entered a scheduling order, which will explain the discovery process in more detail.

7) Counsel for Defendants is hereby granted leave to depose Plaintiff at his place of confinement. Counsel for Defendants shall arrange the time for the deposition.

8) Plaintiff shall immediately notify the Court, in writing, of any change in his mailing address and telephone number.

Plaintiff's failure to notify the Court of a change in mailing address or phone number will result in dismissal of this lawsuit, with prejudice.

9) If a Defendants 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 through the U.S. Marshal's service on that Defendant and will require that Defendant

to pay the full costs of formal service pursuant to Federal Rule of Civil Procedure 4(d)(2).

10) Within 10 days of receiving from Defendants' counsel an authorization to release medical records, Plaintiff is directed to sign and return the authorization to Defendants' counsel.

11) **The clerk is directed to enter the standard order granting Plaintiff's in forma pauperis petition and assessing an initial partial filing fee, if not already done, and to attempt service on Defendants pursuant to the standard procedures.**

12) **The Clerk is directed to enter the standard qualified protective order pursuant to the Health Insurance Portability and Accountability Act.**

ENTERED: October 21, 2014

FOR THE COURT:

s/Sue E. Myerscough

SUE E. MYERSCOUGH
UNITED STATES DISTRICT JUDGE