

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF ILLINOIS
 PEORIA DIVISION

RYAN J. BARNES,)	
)	
Plaintiff,)	
)	
v.)	17-1084
)	
IDOC, <i>et al.</i>)	
)	
Defendants.)	

MERIT REVIEW AND CASE MANAGEMENT ORDER

The plaintiff, proceeding *pro se*, and currently incarcerated at the Dixon Correctional Center, was granted leave to proceed *in forma pauperis*. The case is now before the court for a merit review of plaintiff's claims. The court is required by 28 U.S.C. § 1915A to "screen" the 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.

In reviewing the complaint, the court accepts the factual allegations as true, liberally construing them in the plaintiff's favor. *Turley v. Rednour*, 729 F.3d 645, 649 (7th Cir. 2013). However, conclusory statements and labels are insufficient. Enough facts must be provided to "state a claim for relief that is plausible on its face." *Alexander v. U.S.*, 721 F.3d 418, 422 (7th Cir. 2013)(citation omitted). The court has reviewed the complaint and has also held a merit review hearing in order to give the plaintiff a chance to personally explain his claims to the court.

Plaintiff is currently incarcerated at Dixon Correctional Center; his allegations arise from his incarceration at Pontiac Correctional Center ("Pontiac"). Plaintiff alleges that he was previously diagnosed with a stomach ulcer and prescribed various medications. Plaintiff alleges generally that the medical unit at Pontiac does not staff enough nurses to provide appropriate care for the inmates. Specifically, as it relates to his situation, Plaintiff alleges Defendants Buczkowski, Drilling, and Kjelselvik, all nurses or certified medical technicians, refuse to honor his requests to see a doctor, or tear up his requests slips.

Plaintiff also alleges rampant corruption dating back to when Jim Thompson was governor of Illinois. Plaintiff alleges that Pontiac's administration uses the "Inmate Benefit Fund" to finance staff appreciation barbecues, among other things, and that Pontiac officials have high-ranking state and county officials in their "back pockets."

Plaintiff states a claim for deliberate indifference to a serious medical need against Defendants Buczkowski, Drilling, and Kjelselvik based upon his allegations that nursing staff is obstructing his ability to seek medical treatment. *See Petties v. Carter*, 836 F.3d 722 (7th Cir. 2016). Plaintiff also states a claim against Wexford Health Sources on the basis that the healthcare unit is systemically understaffed. *See Phillips v. Sheriff of Cook County*, 828 F.3d 541, 554 (7th Cir. 2016). Ultimately, Plaintiff will have to show that the treatment he sought was medically necessary, and that any delay in receiving such treatment exacerbated his underlying condition, but at this stage, his allegations are sufficient. Plaintiff does not state a claim based upon the alleged corruption. His allegations are too speculative for the Court to conclude a plausible claim exists.

IT IS THEREFORE ORDERED:

1. Pursuant to its merit review of the Complaint under 28 U.S.C. § 1915A, the court finds that the plaintiff states an Eighth Amendment claim for deliberate indifference to a serious medical need against Defendants Buczkowski, Drilling, Kjelselvik, and Wexford Health Sources. 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. The plaintiff is advised to wait until counsel has appeared for the defendants before filing any motions, in order to give the 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. The 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 the defendants by mailing each defendant a waiver of service. The defendants have 60 days from the date the waiver is sent to file an answer. If the defendants have not filed answers or appeared through counsel within 90 days of the entry of this order, the plaintiff may file a motion requesting the status of service. After the 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 the 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. The 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 the defendants' positions. The court does not rule on the merits of those positions unless and until a motion is filed by the 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 the plaintiff with the clerk. The plaintiff does not need to mail to defense counsel copies of motions and other papers that the 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. The 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 the defendants is hereby granted leave to depose the plaintiff at his place of confinement. Counsel for the defendants shall arrange the time for the deposition.

8. The plaintiff shall immediately notify the court, in writing, of any change in his mailing address and telephone number. The 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 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 through the U.S. Marshals 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. The clerk is directed to enter the standard qualified protective order pursuant to the Health Insurance Portability and Accountability Act.

11. The clerk is directed to attempt service on the defendants pursuant to the standard procedures.

12. Plaintiff's motion for the FBI to conduct an investigation (#4) is denied. The Court does not have the authority to order the FBI to initiate an investigation.

Entered this 11th day of May, 2017

/s/ Harold A. Baker

HAROLD A. BAKER
UNITED STATES DISTRICT JUDGE