# United States District Court, Northern District of Illinois

| Name of Assigned Judge or Magistrate Judge | Judge Zagel | Sitting Judge if Other than Assigned Judge | |
|---|---|---|---|
| CASE NUMBER | 06 C 7067 | DATE | June 29, 2011 |
| CASE TITLE | WILLIAMS v. McCANN, et al. | | |

**DOCKET ENTRY TEXT:**

For the reasons stated below, the matter is dismissed in its entirety, with prejudice.

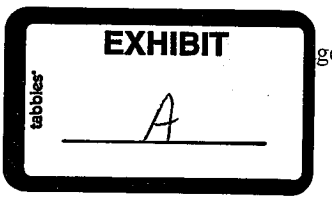
## STATEMENT

This case is one of a long line of suits filed by Claxton Williams, Jr. It is titled as a class action, but it is not. Williams is a not a lawyer able to represent a class, and his history of litigation establishes that he is not suitable as a class representative.

Here he sues various state officials, two medical doctors and a contract provider of medical services (Wexford). The state officials note that Plaintiff was granted leave to file informa pauperis. He failed to reveal that he had previously been found to have filed three frivolous proceedings which would bar him from filing without paying the fee. (I note that he had some previous filings that were non-frivolous, one of which was tried on the merits before me.) I would therefore dismiss the case for failure to pay the filing fee, but I do not want to impose upon Plaintiff the filing of the fee since the case will be dismissed on other grounds.

The state officials are not alleged to have taken any personal action of wrongdoing, and this is a prerequisite of filing a claim against named correctional officials and the Governor of Illinois. *Gentry v. Duckworth,* 65 F.3d 555, 561 (7th Cir. 1995). "To be personally responsible, an official 'must know about the conduct and facilitate it, approve it, condone it, or turn a blind eye." *Knight v. Wiseman*, 590 F.3d 458, 463 (7th Cir. 2009). Deliberate indifference claims related to medical treatment are not available here because the complaint clearly states that Plaintiff was under professional medical care. If there was malpractice, as he alleges, it cannot be laid at the door of the state officials. Finally, the plaintiff has followed his usual course of including in his complaints and pleadings a variety of unrelated grievances arising from his incarceration. These claims are unrelated to the basic claim here and are stricken.

The claim against the treaters stands on a different footing. Given the complex nature of malpractice claims, I thought it best to appoint counsel to represent Plaintiff. The appointment was made at the end of



**STATEMENT**

2008, and counsel reviewed medical records from DOC and from the UIC Medical Center. He reached the conclusion that the "overwhelming majority of the claims...are frivolous or futile." He also concluded that some of the claims are duplicative of claims asserted in the Central District[1] and that other distinct claims were improperly joined. Obviously, he had discussed these matters with his client who has, in other cases before me, demonstrated an unwillingness to accept disagreement with his views. Appointed counsel sought relief from his appointment for an irresolvable disagreement over litigation strategy and for counsel's opinion that his client displayed a "lack of candor." I granted his motion to withdraw. So instead of a proper complaint drafted by competent counsel on the basis of a small subset of what the plaintiff wanted to plead, what remains before me is a melange of poorly stated claims, nearly all of which are either improperly joined or unsustainable. The plaintiff has adopted, as he has before, an "all or nothing" posture. Here the correct answer is "nothing."

The medical malpractice claim, based upon state law, cannot proceed without a merits review by a medical professional, an absolute requirement of the state statute. A layman unrepresented by a lawyer might find it difficult to secure such a review but it is possible to do so. Some layman, it has been reported to me, did file and secure such a review. The medical malpractice claim also fails, because the medical errors are not attributed to any specific practitioner. The claim also fails because administrative remedies were not exhausted. It is not enough to complain once and then go no further. It is not enough to claim that the inmate never wins and so the exhaustion of remedies is pointless. It is also clear from the complaint that the alleged medical failures were known to Plaintiff by 2001 and he grieved in early 2006. The regulations give him 60 days, not four or five years. Even without a specified deadline, the delay was so long it would require dismissal for equitable reasons under the rule of laches.

That this complaint is largely or, perhaps, entirely pointless is made clear by the allegation that the physicians and the contract medical care provider conspired with state officials including the Governor to murder Plaintiff.

Perhaps there is a triable or pleadable claim here but it is buried under a mass of claims and assertions that are not. A lawyer might have helped Plaintiff file a decent complaint of far smaller scope than the one that Plaintiff wanted, possibly a complaint that might survive plausibility review (but perhaps not exhaustion of remedies review). This is not what the plaintiff was willing to do. To the extent that Plaintiff has a valid claim, it may well be addressed in the two cases pending in the Central District.[2]

There is a suggestion that Plaintiff wanted to, and did not, receive a chance to challenge his appointed counsel's reasons for withdrawing his motion for a TRO. This is of no significance since there was no evidence that would justify a TRO, and there is no basis in the flawed complaint to justify a TRO. It is quite clear that Plaintiff would not want to challenge the motion to withdraw since he has filed a paper stating that his lawyer was appointed "to sabotage case 06-C-7067." I note too that Plaintiff has not responded to either motion to dismiss despite being notified by court order that he had a deadline of several weeks to file a response.

The complaint is dismissed, with prejudice, for failure to properly plead a claim, for failure to exhaust remedies, for untimeliness, and for improper joinder of unrelated claims.

1. *Orr et al. v. Elyea et al.*, No. 08-cv-2232 (C.D. Ill. 2008); *Collins et al. v. Elyea, et al.*, No. 10-cv-2095 (C.D. Ill. 2010).

2. *See id.*