

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

NORMAN TRACY,

Plaintiff,

v.

JOHN BOYD,

Defendant.

CAUSE NO.: 3:18-CV-526-PPS-MGG

OPINION AND ORDER

Norman Tracy, a prisoner without a lawyer, alleges the mattress he was given on January 30, 2018, at the LaPorte County Jail was infested with black mold. Though it was replaced on June 15, 2018, it has caused him to have burning skin and difficulty breathing. A document filed pro se is to be liberally construed, and a pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers." *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (quotation marks and citations omitted). However, pursuant to 28 U.S.C. § 1915A, I must review the merits of a prisoner complaint and dismiss it if the action is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief.

Here, the only named defendant is Sheriff John Boyd. Tracy does not allege (and it would not be plausible to infer) that Sheriff Boyd personally gave him the mattress or even that he knew anything about it. There is no general respondeat superior liability under 42 U.S.C. § 1983. "Only persons who cause or participate in the violations are

responsible.” *George v. Smith*, 507 F.3d 605, 609 (7th Cir. 2007). “[P]ublic employees are responsible for their own misdeeds but not for anyone else’s.” *Burks v. Raemisch*, 555 F.3d 592, 596 (7th Cir. 2009). Therefore this complaint does not state a claim.

Nevertheless, Tracy may filed an amended complaint. *See Luevano v. Wal-Mart*, 722 F.3d 1014 (7th Cir. 2013). In the amended complaint, he needs to name as a defendant a person or persons who knew he had a mattress with black mold that was causing him to have health problems. He needs to say who he told about the black mold and when. He needs to say who he told about his health problems and when. He needs to say what they did in response. He needs to explain why his mattress was ultimately replaced.

For these reasons, the court:

(1) GRANTS Norman Tracy until **December 6, 2018**, to file an amended complaint; and

(2) CAUTIONS Norman Tracy if he does not respond by the deadline, this case will be DISMISSED without further notice because the current complaint does not state a claim.

SO ORDERED on November 7, 2018.

/s/ Philip P. Simon
PHILIP P. SIMON, JUDGE
UNITED STATES DISTRICT COURT