

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

LUIS CARRERA SILVA,

Plaintiff,

v.

DR. CHAPCHET and DOREEN
KASTEN,

Defendants.

CAUSE NO.: 3:19-CV-164-PPS-MGG

OPINION AND ORDER

Luis Carrera Silva, a prisoner without a lawyer, filed a complaint alleging he was denied proper medical treatment at the Pulaski County Jail while he was a pre-trial detainee. A filing by an unrepresented party “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). Nevertheless, 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.

Silva alleges he had painful pimples on his head, blurry vision, and burning eyes from August 24, 2017, to March 3, 2019. He alleges he complained repeatedly to Nurse Doreen Kasten, but she has ignored him. He alleges Nurse Kasten will not provide him

with the necessary diet for his diabetes causing him to feel dizzy. Finally, he alleges Dr. Chapchet performed surgery on his head on December 19, 2018, without anesthetic.

“In evaluating the constitutionality of conditions or restrictions of pretrial detention . . . the proper inquiry is whether those conditions amount to punishment of the detainee.” *Bell v. Wolfish*, 441 U.S. 520, 535 (1979). In *Kingsley v. Hendrickson*, 576 U.S. ___, __; 135 S.Ct. 2466 (2015), the United States Supreme Court explained “in the absence of an expressed intent to punish, a pretrial detainee can nevertheless prevail by showing that the actions are not ‘rationally related to a legitimate nonpunitive governmental purpose’ or that the actions ‘appear excessive in relation to that purpose.’” *Kingsley*, 135 S.Ct. at 2473 (quoting *Bell*). Based on these allegations, Silva’s has stated a claim.

For these reasons, the court:

(1) GRANTS Luis Carrera Silva leave to proceed against Nurse Doreen Kasten for ignoring the painful pimples on his head, his blurry vision, burning eyes, and need for a diabetic diet from August 24, 2017, to March 3, 2019, in violation of the Fourteenth Amendment;

(2) GRANTS Luis Carrera Silva leave to proceed against Dr. Chapchet for performing surgery on his head on December 19, 2018, without anesthetic in violation of the Fourteenth Amendment;

(3) DISMISSES all other claims;

(4) DIRECTS the clerk and the United States Marshals Service, as required by 28 U.S.C. § 1915(d), to issue and serve process with a copy of this order and the Complaint (ECF 1) on Nurse Doreen Kasten and Dr. Chapchet at the Pulaski County Jail; and

(4) ORDERS, pursuant to 42 U.S.C. § 1997e(g)(2), Nurse Doreen Kasten and Dr. Chapchet to respond, as provided for in the Federal Rules of Civil Procedure and N.D. Ind. L.R. 10-1(b), only to the claims for which the plaintiff has been granted leave to proceed in this screening order.

SO ORDERED on March 11, 2019.

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