

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA**

THOMAS M. JAMES,	)	
	)	
Plaintiff,	)	
vs.	)	1:09-cv-1204-WTL-TAB
	)	
DR. ELI LORENZO, et al.,	)	
	)	
Defendants.	)	

**ENTRY AND ORDER**

As a result of the screening required by 28 U.S.C. § 1915A(b), the legally insufficient claims in the second amended complaint filed by James Thomas will be dismissed, while other claims will proceed, all consistent with the following:

1. The claims which are legally insufficient are identified below and are **dismissed** for the reason(s) noted:

a. **Claims against GEO Group, Inc. (“GEO”), Correctional Medical Services (“CMS”), and Wishard Hospital are dismissed.** The reason for this is that these defendants, whether private corporations (in the case of GEO and CMS) or a municipal entity (in the case of Wishard Hospital) are not vicariously liable under 42 U.S.C. § 1983 for the alleged misdeeds of their employees, but only if the injury alleged is the result of a policy or practice. *Rodriguez v. Plymouth Ambulance Serv.*, 577 F.3d 816 (7th Cir. 2009). No ingredient of that nature is present in the sprawling second amended complaint.

b. The **claim against the State of Indiana is dismissed** because of this defendant’s Eleventh Amendment immunity and because this defendant is not a “person” subject to suit pursuant to 42 U.S.C. § 1983. *Billman v. Department of Corrections*, 56 F.3d 785 (7th Cir. 1995) (Indiana is not subject to suit in federal court pursuant to 42 U.S.C. § 1983 because of both its Eleventh Amendment immunity and the fact that a state is not a “person” subject to suit under § 1983).

c. “Because vicarious liability is inapplicable to . . . § 1983 suits, a plaintiff must plead that each Government-official defendant, through the official’s own individual actions, has violated the Constitution.” *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1948 (2009); *see also Burks v. Raemisch*, 555 F.3d 592, 593-94 (7th Cir. 2009) (“Section 1983 does not establish a system of vicarious responsibility. Liability depends on each defendant’s knowledge and actions, not on the knowledge or actions of persons they supervise.”). **Claims against Superintendent Jeffrey Wrigles are**

**dismissed** based on this principle because James does not allege facts that support a finding that the Superintendent personally participated in any constitutional violation.

d. **Claims against “all others acting in concert,” “ABC-XYZ Corp.” and “all black and white entities A-Z” are dismissed** because “it is pointless to include [an] anonymous defendant [ ] in federal court; this type of placeholder does not open the door to relation back under Fed.R.Civ.P. 15, nor can it otherwise help the plaintiff.” *Wudtke v. Davel*, 128 F.3d 1057, 1060 (7th Cir. 1997) (internal citations omitted).

2. No partial final judgment shall issue at this time as to the claims resolved in this Entry. The action will proceed as to the claims not dismissed as legally insufficient above.

3. The clerk is designated, pursuant to *Fed. R. Civ. P.* 4(c)(3), to issue and serve process on defendants Dr. Eli Lorenzo, Officer Leflore, and Dr. Nicolas Villanustre<sup>1</sup> in the manner specified by *Fed. R. Civ. P.* 4(d)(1). Process in this case shall consist of the second amended complaint (dkt 24), this Entry, and applicable forms. Any steps James has taken to independently serve process on defendants against whom claims have been dismissed are necessarily of no effect.

**IT IS SO ORDERED.**

Date: 07/30/2010



Hon. William T. Lawrence, Judge  
United States District Court  
Southern District of Indiana

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<sup>1</sup> The clerk is directed to update the docket to reflect that all other defendants have been dismissed or were not named in the second amended complaint.

Distribution:

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