

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF INDIANA
 INDIANAPOLIS DIVISION

CHRISTOPHER J. DIRIG, SR.,)	
)	
Plaintiff,)	
)	
vs.)	No. 1:16-cv-02812-LJM-DKL
)	
THE GEO GROUP, INC.,)	
JOHN/JANE DOE(S),)	
)	
Defendants.)	

**Entry Discussing Amended Complaint, Dismissing Insufficient Claims,
 Discussing Pending Motions, and Directing Issuance and Service of Process**

I. Background

In the Entry of November 22, 2016, the Court gave plaintiff Christopher Dirig a deadline to file an amended complaint because his first pleading did not constitute a complaint. He has filed his amended complaint.

II. Screening Amended Complaint

The amended complaint is subject to screening under 28 U.S.C. § 1915A. The Court must dismiss the complaint if it is frivolous or malicious, fails to state a claim for relief, or seeks monetary relief against a defendant who is immune from such relief. *Id.*

Mr. Dirig is an inmate at the New Castle Correctional Facility (“NCCF”). In his amended complaint, he names 31 defendants. The defendants are sued in their individual and official capacities. Mr. Dirig seeks compensatory damages and injunctive relief in the form of mental health treatment.

Mr. Dirig alleges that on or about August 18, 2016, Officer K. Stewart rubbed her buttocks on him against his back while he was in the chow hall. When he asked her to please

stop she allegedly said “No, I can do what I want.” She did this in a sexual manner four times. On another occasion, October 14, 2016, Officer K. Stewart asked Mr. Dirig to go into J Dorm to have sex with her. He seeks \$5 million dollars from Officer Stewart for sexual misconduct and humiliation. This Eighth Amendment claim shall proceed.

Mr. Dirig further alleges that he reported the incidents several times in August 2016 to Casework Manager Easley and gave her PREA Incident Reports, but she told him later she did not know what happened to the reports. No PREA investigation was done. He seeks \$10 million dollars from Case Manager Easley for not reporting the sexual misconduct. This claim, construed as an Eighth Amendment claim of failing to take reasonable steps to protect Mr. Dirig’s safety, *Farmer v. Brennan*, 511 U.S. 825, 832 (1994), shall proceed.

Mr. Dirig alleges he was placed and remains in segregation for reporting Officer Stewart’s misconduct. He alleges he was placed in segregation “for no conduct.” He seeks \$20 million in damages from GEO Group, Inc. for this claim. GEO Group, Inc., is “a private company that manage[s]” correctional facilities “for the State of Indiana.” *Chaib v. Geo Group, Inc.*, 819 F.3d 337, 339 (7th Cir. 2016). GEO Group, Inc. is not a person capable of being sued for placing Mr. Dirig in segregation. Without personal liability, there can be no recovery under 42 U.S.C. § 1983. *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.”) (internal citation omitted). In addition, Mr. Dirig does not allege that any GEO Group, Inc. custom or policy caused a constitutional violation. Therefore, the claim of being placed in segregation for no misconduct, which could be construed as a claim of retaliation or due process violation, as

asserted against GEO Group, Inc., is **dismissed for failure to state a claim upon which relief can be granted.**

Finally, with respect to the numerous other defendants, Mr. Dirig does not allege any facts of wrongdoing against those individuals. He alleges that “all defendants named have knowledge of incident(s) [of] sexual misconduct or being placed in segregation without conduct.” Simply having knowledge of circumstances that gave rise to his claims is not sufficient to bring those defendants, without more, into the zone of liability. Therefore, any claims against those defendants are **dismissed for failure to state a claim upon which relief can be granted.**

No partial final judgment shall issue at this time regarding the claims dismissed in this Entry.

III. Plaintiff’s Motions

The plaintiff’s motion entering evidence [dkt. 12] is **denied** to the extent the plaintiff seeks to enter evidence at this early stage of the litigation.

The plaintiff’s motion regarding access to the courts requesting the Court to order the GEO Group not to prevent him from mailing legal mail [dkt. 13] is **denied** because the plaintiff has been able to file his complaint and several motions with the Court.

The plaintiff’s motion to set hearing [dkt. 14] is **denied as premature.**

The plaintiff’s motion for copies asking for proof that the Court received his amended complaint [dkt. 15] is **granted.** The **clerk shall** include a copy of the docket sheet with the plaintiff’s copy of this Entry.

IV. Service of Process

The Eighth Amendment claims against Officer K. Stewart and Case Manager Easley shall proceed.

The clerk is designated pursuant to *Fed. R. Civ. P.* 4(c) to issue process to Officer K. Stewart and Case Manager Easley in the manner specified by Rule 4(d). Process shall consist of the amended complaint filed on December 12, 2016 (docket 11), applicable forms (Notice of Lawsuit and Request for Waiver of Service of Summons and Waiver of Service of Summons), and this Entry.

The plaintiff shall report any change of address within seven (7) days.

The clerk shall **update the docket to reflect that these are the only two defendants in this action.** As noted above, the clerk shall also send the plaintiff a copy of the docket sheet.

IT IS SO ORDERED.

Date: 12/29/2016


LARRY J. MCKINNEY, JUDGE
United States District Court
Southern District of Indiana

Distribution:

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NOTE TO CLERK: PROCESSING THIS DOCUMENT REQUIRES ACTIONS IN ADDITION TO DOCKETING AND DISTRIBUTION.