

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF INDIANA
 INDIANAPOLIS DIVISION

KEVIN REAVES,)	
)	
Plaintiff,)	
)	
vs.)	No. 1:17-cv-03374-SEB-MPB
)	
TAMMY TROXELL,)	
KIM STAFFORD,)	
ALISHA RICHEY,)	
)	
Defendants.)	

Entry Screening Amended Complaint and Directing Issuance and Service of Process

I. Screening Standard

Plaintiff Kevin Reaves is a prisoner currently incarcerated at Wabash Valley Correctional Facility. Because Mr. Reaves is a “prisoner” as defined by 28 U.S.C. § 1915(h), the amended complaint is subject to the screening requirement of 28 U.S.C. § 1915A(b). Pursuant to this statute, “[a] complaint is subject to dismissal for failure to state a claim if the allegations, taken as true, show that plaintiff is not entitled to relief.” *Jones v. Bock*, 127 S. Ct. 910, 921 (2007). To survive a motion to dismiss, the complaint “must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face. . . . A claim has facial plausibility when plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1949 (2009) (quotations omitted). Pro se complaints such as that filed by plaintiff are construed liberally and held to a less stringent standard than formal pleadings drafted by lawyers. *Obriecht v. Raemisch*, 517 F.3d 489, 491 n.2 (7th Cir. 2008).

II. Background

Mr. Reaves filed his original complaint on September 21, 2017. That complaint named four defendants: 1) Indiana Department of Corrections; 2) counselor Tammy Troxell; 3) classification supervisor Kim Stafford; and 4) LPN Alisha Richey. Mr. Reaves alleged that Ms. Troxell and Ms. Stafford acted in a discriminatory manner on a racial basis towards him. He further alleged that LPN Richey removed him from chronic care because he refused to take a certain medication. Finally, he alleged that he was retaliated against by Ms. Troxell and LPN Richey for filing a lawsuit. The Court screened and dismissed the complaint on January 19, 2018, but provided Mr. Reaves the opportunity to show cause or file an amended complaint. Mr. Reaves filed an amended complaint on January 29, 2018.

III. Mr. Reaves' New Allegations and Claims

In his amended complaint, Mr. Reaves narrowed his claims to just a retaliation claim against Ms. Kim Stafford and LPN Alisha Richey. Mr. Reaves alleges that he was retaliated against for filing a civil law suit against Robert Stafford in Madison County Cause No. 48c06-1707-CT-00002. The Court takes judicial notice in Madison County Cause No. 48c06-1707-CT-00002 is currently proceeding to trial and a Matthew Stafford is one of the named defendants in the matter. Robert (or Matthew) Stafford is allegedly the husband of Ms. Stafford, and LPN Richey is allegedly the daughter of the best friend of Ms. Stafford.

As a result of filing the lawsuit in Madison County, Mr. Reaves alleges that Ms. Stafford falsified state documentation, falsely raised his security level and had him transferred from the Correctional Industrial Facility to a maximum security level facility. Mr. Reaves further alleges that LPN Richey removed him from chronic care in retaliation for the lawsuit.

To state a First Amendment claim for retaliation, a plaintiff must allege that “(1) he engaged in activity protected by the First Amendment; (2) he suffered a deprivation that would

likely deter First Amendment activity in the future; and (3) the First Amendment activity was at least a motivating factor in the defendants' decision to take the retaliatory action." *Bridges v. Gilbert*, 557 F.3d 541, 546 (7th Cir. 2009) (internal quotation omitted).

As to LPN Richey, the complaint does not provide a factual basis to support, at least, the second element. Mr. Reaves' removal from chronic care scheduling is not a deprivation likely to prevent him from filing future lawsuits under the circumstances alleged. Nor has Mr. Reaves identified any actual injury from the approximately three months he was taken off of the chronic care scheduling. Mr. Reaves' theory of retaliation against LPN Richey thus fails to state a claim upon which relief can be granted.

As to Ms. Stafford, Mr. Reaves' current allegations are sufficient to state a claim that Ms. Stafford retaliated against Mr. Reaves for filing the state court action against her husband.

IV. Claim that will Proceed and Claims that are Dismissed

Based on the above screening, Mr. Reaves' claim that he was retaliated against for filing Madison County Cause No. 48c06-1701-CT-000002 **shall proceed** against defendant Kim Stafford.

Mr. Reaves' claims against counselor Tammy Troxell and LPN Richey are **dismissed** for the reasons discussed above and previously in the Court's entry of January 19, 2018 (dkt. # 19).

V. Duty to Update Address

The pro se plaintiff shall report any change of address within ten (10) days of any change. The Court must be able to locate the plaintiff to communicate with him. If the plaintiff fails to keep the Court informed of his or her current address, the action may be subject to dismissal for failure to comply with Court orders and failure to prosecute.

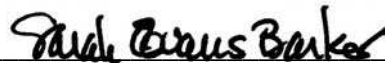
VI. Service of Process

The clerk is **designated** pursuant to *Fed. R. Civ. P.* 4(c)(3) to issue process to defendant Kim Stafford in the manner specified by *Fed. R. Civ. P.* 4(d). Process shall consist of the amended complaint (docket 20), applicable forms (Notice of Lawsuit and Request for Waiver of Service of Summons and Waiver of Service of Summons), and this Entry.

The clerk is directed to terminate from the docket Tammy Troxell and Alisha Richey as defendants in this action.

IT IS SO ORDERED.

Date: 2/13/2018



SARAH EVANS BARKER, JUDGE
United States District Court
Southern District of Indiana

Distribution:

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