

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ROBERT LEE SNYDER,)
)
Plaintiff,)
)
v.)
)
DUSHAN ZATECKY Warden,)
ANDREW COLE Assistant Warden,)
MIKE SPURGEON Captain,)
JACKSON Property Officer; Sergeant,)
ASHLEY MCCOY Property Officer,)
CHARLES RINEHART Lieutenant,)
GERARD SPEARS Unit Team Manager,)
KRISTYN DICKINSON Counselor,)
)
Defendants.)

No. 1:17-cv-03830-TWP-TAB

Entry Screening Complaint and Directing Further Proceedings

I. Screening Standard

Plaintiff Robert Lee Snyder is a prisoner currently incarcerated at Pendleton Correctional Facility (“Pendleton”). Because the plaintiff is a “prisoner” as defined by 28 U.S.C. § 1915(h), this Court has an obligation under 28 U.S.C. § 1915A(b) to screen his amended complaint before service on the defendants. Pursuant to 28 U.S.C. § 1915A(b), the Court must dismiss the amended 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. In determining whether the amended complaint states a claim, the Court applies the same standard as when addressing a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). *See Lagerstrom v. Kingston*, 463 F.3d 621, 624 (7th Cir. 2006). To survive dismissal,

[the] complaint must contain sufficient factual matter, accepted as true, to state a claim for relief that is plausible on its face. A claim has facial plausibility when the 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, 556 U.S. 662, 678 (2009). Pro se complaints such as that filed by the 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. The Amended Complaint

The amended complaint names Warden Duschan Zatecky, Assistant Warden Andrew Cole, Captain Mike Spurgeon, Property Officer Sgt. Jackson, Property Officer Ashley McCoy, Lt. Charles Rinehart, Unit Team Manager Gerard Spears, and Counselor Kristyn Dickinson as defendants. All defendants are Indiana Department of Correction employees working at Pendleton. His claims are brought pursuant to 42 U.S.C. § 1983.

The plaintiff alleges that on July 28, 2017, he was transferred from Putnamville Correctional Facility to Pendleton. Upon arrival at Pendleton, the plaintiff told staff that he had back and left shoulder problems and that he needed medical items and medications that were with his property. He was not allowed to use those items and was told that he had to wait 14 days to be issued his property. The plaintiff also sought and was initially denied a bottom bunk pass. When he was finally seen by medical personnel he was told that there was nothing they could do for him. The plaintiff was finally issued a bottom bunk pass on October 12, 2017, because outside medical records confirmed that he had a bone fusion in his lower back. However, from October 12 through the date this complaint was filed, the plaintiff was still placed in a top bunk.

The plaintiff specifically addressed to his complaints regarding his property and top bunk placement to Warden Zatecky, Lt. Rinehart, and Property Officer McCoy. His grievances went unresolved. The plaintiff seeks money damages and injunctive relief.

III. Discussion of Claims

Applying the screening standard to the factual allegations in the amended complaint certain claims are dismissed while other claims shall proceed as submitted.

The amended complaint's factual allegations are sufficient to allege an Eighth Amendment deliberate indifference claim against 1) Warden Zatecky, 2) Lt. Rinehart, and 3) Property Officer McCoy based on their failure to timely release his necessary medical supplies in his property and denial of a bottom bunk.

The claims against defendants Assistant Warden Andrew Cole, Captain Mike Spurgeon, Property Officer Sgt. Jackson, Unit Team Manager Gerard Spears, and Counselor Kristyn Dickinson are dismissed as legally insufficient because there is no allegation of wrongdoing on their part. "Where a complaint alleges no specific act or conduct on the part of the defendant and the complaint is silent as to the defendant except for his name appearing in the caption, the complaint is properly dismissed." *Potter v. Clark*, 497 F.2d 1206, 1207 (7th Cir. 1974); I, 22 F.3d 1395, 1401 and n.8 (7th Cir. 1994) (district court properly dismissed complaint against one defendant when the complaint alleged only that defendant was charged with the administration of the institution and was responsible for all persons at the institution).

If the plaintiff believes that additional claims were alleged in the complaint, but not identified by the Court he shall have **through December 28, 2017**, in which to identify those claims.

IV. 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.

V. Service of Process

The clerk is designated pursuant to *Fed. R. Civ. P. 4(c)(3)* to issue process to defendants 1) Warden Zatecky, 2) Lt. Rinehart, and 3) Property Officer McCoy in the manner specified by Rule 4(d). Process shall consist of the amended complaint filed on November 3, 2017, (docket 8), 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 designated to serve the Indiana Department of Correction employees electronically.

IT IS SO ORDERED.

Date: 12/6/2017

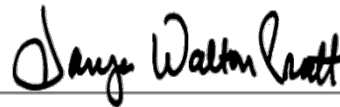
Distribution:

Electronic service to:

Warden Zatecky
Lt. Rinehart
Property Officer McCoy

All at Pendleton Correctional Facility

ROBERT LEE SNYDER
101325
PENDLETON - CF
PENDLETON CORRECTIONAL FACILITY
Inmate Mail/Parcels
4490 West Reformatory Road
PENDLETON, IN 46064



TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana