

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

LARRY BENFORD,)	
)	
Plaintiff,)	
v.)	1:08-cv-906-DFH-TAB
)	
JON MARVEL, et al.,)	
)	
Defendants.)	

Entry Discussing Complaint and Directing Further Proceedings

I.

A.

Plaintiff Larry Benford, Sr., alleges that on December 27, 2007, he was booked into the Vigo County Jail and that Officer Smith proceeded to assault him without provocation. In addition, he claims that following the assault he requested medical attention, but Officer Smith and Nurse Paula denied his request. Benford has filed this lawsuit against Officer Smith and Nurse Paula, as well as against Vigo County Sheriff Marvel and Jail Commander Myles for failing to respond to his requests and grievance letters and for separate violations of his rights in connection with his alleged mistreatment at the Jail. Benford's claims are asserted pursuant to 42 U.S.C. § 1983. He seeks compensatory and punitive damages.

B.

The complaint is subject to screening pursuant to 28 U.S.C. § 1915A. This statute requires the court to dismiss the complaint or any claim within the complaint which "(1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or (2) seeks monetary relief from a defendant who is immune from such relief." *Id.*; see *Lagerstrom v. Kingston*, 463 F.3d 621, 624 (7th Cir. 2006). A complaint is sufficient only to the extent that it "contain[s] either direct or inferential allegations respecting all the material elements necessary to sustain recovery under some viable legal theory." *Bell Atl. Corp. v. Twombly*, 127 S. Ct. 1955, 1969 (2007) (quoting *Car Carriers, Inc. v. Ford Motor Co.*, 745 F.2d 1101, 1106 (7th Cir. 1984)).

C.

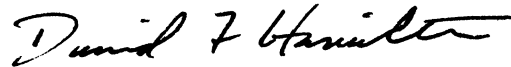
Applying the above standard, the action will proceed against the defendant individuals, but the claim against the Vigo County Jail is dismissed as legally insufficient because the Jail is not a "person" subject to suit pursuant to 42 U.S.C. § 1983.

No partial final judgment shall issue at this time as to the claim resolved in this Entry.

II.

The clerk is designated, pursuant to *Fed. R. Civ. P.* 4(c)(3), to issue and serve process on Officer Smith, Nurse Paula, Sheriff Jon Marvel, Commander Myers, and Vigo County in the manner specified by *Fed. R. Civ. P.* 4(d)(1). Process in this case shall consist of the complaint, applicable forms and this Entry.

So ordered.



DAVID F. HAMILTON, Chief Judge
United States District Court

Date: 12/19/2008

Distribution:

Larry Benford
DOC #892701
Putnamville Correctional Facility
1946 West U.s. 40
Greencastle, IN 46135

Vigo County, Indiana
c/o Attorney Robert Wright
500 Ohio Street
Terre Haute, IN 47807

Sheriff Jon Marvel
Jail Commander Myers
Officer Smith
Nurse Paula (last name unknown)

All at:
Vigo County Jail
201 Cherry Street
Terre Haute, IN 47807