

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION

TIMOTHY DALE STEPHENS,	)	
	)	
Plaintiff,	)	
v.	)	Case No. 2:13-cv-0221-WTL-MJD
	)	
STEVEN BROWN, Corizon Medical	)	
Service,	)	
	)	
Defendant.	)	

**Entry Dismissing Amended Complaint and Directing Final Judgment**

**I. Legal Standards**

The plaintiff filed an amended complaint as directed in the Entry of June 19, 2013. The plaintiff’s amended complaint and the letter he filed explaining his claims are now subject to screening pursuant to 28 U.S.C. § 1915A(b). This statute directs that the court dismiss a complaint or any claim within a 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.*

“[A] complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)(internal quotation omitted). “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.” *Id.* (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 556 (2007)).

## II. Analysis

The plaintiff alleges that Corizon has failed to give him adequate medical care. He alleges that because of high turnover of medical staff at the prison and his own memory loss problems, he has not been able to identify any particular defendants besides Corizon. He alleges that he was diagnosed with epilepsy 20 years ago but that since he was attacked in June of 2012 and suffered a head injury, he has experienced different types of seizures. He alleges that the medical staff have told him that "epilepsy is epilepsy" but he believes something different has been happening to him since the head injury occurred. He wants to have a cat scan or MRI to better diagnose his problem. He is currently being seen in chronic care visits at the prison but he alleges that he has not been given proper examinations. He alleges that Corizon is negligent for not trying to find out what is wrong with him.

Unfortunately for the plaintiff, his allegations do not rise to the level required to state a claim of deliberate indifference to a serious medical need under the Eighth Amendment to the Constitution. Plaintiff is being monitored by medical professionals. He does not allege that he has been denied medical care, but he disagrees with the medical staff's approach and/or opinions. He wants particular diagnostic tests to be provided. The Eighth Amendment, however, does not provide a right to "demand specific care" or "the best care possible." *Arnett v. Webster*, 658 F.3d 742, 754 (7th Cir. 2011). Allegations of negligence do not state a claim for relief under 42 U.S.C. § 1983. *Farmer v. Brennan*, 511 U.S. 825, 835 (1994).<sup>1</sup>

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<sup>1</sup> In addition, the plaintiff requests that the court order prison officials to immediately provide the plaintiff with a copy of his medical packet free of charge. The Court lacks the authority to do so. Under these circumstances, the Court cannot interfere with the day to day operations of the prison. The plaintiff may make a request to review his records in accordance with prison policies and procedures.

### III. Conclusion

“[A] plaintiff can plead himself out of court by alleging facts that show there is no viable claim.” *Pugh v. Tribune Co.*, 521 F.3d 686, 699 (7th Cir. 2008). That is the situation here. Dismissal of the amended complaint pursuant to 28 U.S.C. § 1915A(b) is therefore mandatory. *Gladney v. Pendleton Corr. Facility*, 302 F.3d 773, 775 (7th Cir. 2002).

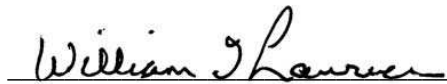
Judgment consistent with this Entry shall now issue.

**IT IS SO ORDERED.**

Date: 07/15/2013

Distribution:

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