

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

TODD GOSHA,)
Plaintiff,)
vs.) No. 2:17-cv-00336-WTL-MJD
R. ROBINSON,)
CORIZON HEALTHCARE,)
DIRECTOR OF NURSING,)
MARY A. CHAVEZ Dr. (MD),)
Defendants.)

Entry Discussing Complaint and Directing Further Proceedings

Plaintiff Todd Gosha, an inmate at the Wabash Valley Correctional Facility, brings this action pursuant to 42 U.S.C. § 1983 alleging that he has received constitutionally inadequate medical care for a hernia. He seeks monetary and injunctive relief.

I. Screening of the Complaint

Because Gosha is a “prisoner” as defined by 28 U.S.C. § 1915(h), the 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*, 549 U.S. 199, 215 (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 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) (quotations omitted). 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. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007); *Obriecht v. Raemisch*, 517 F.3d 489, 491 n.2 (7th Cir. 2008).

Gosha alleges that defendants Dr. Chavez and Nurse R. Robinson have denied and delayed needed treatment for a painful hernia. This claim **shall proceed** as a claim that these defendants have been deliberately indifferent to Gosha's serious medical needs in violation of the Eighth Amendment.

Gosha's claim against Corizon Healthcare Services must be **dismissed**. The reason for this is that this defendant is not vicariously liable under 42 U.S.C. § 1983 for the alleged misdeeds of its employees, unless the injury alleged is the result of a policy or practice. *Rodriguez v. Plymouth Ambulance Serv.*, 577 F.3d 816 (7th Cir. 2009). No allegation of that nature is present in the complaint. Any claim against the Director of Nursing is **dismissed** because Gosha does not identify this person or refer to this person in the body of the complaint. *See Potter v. Clark*, 497 F.2d 1206, 1207 (7th Cir. 1974) ("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.").

II. Further Proceedings

As discussed above, Gosha's claim that he has received inadequate treatment for his hernia **shall proceed** as a claim of deliberate indifference to his serious medical needs in violation of the Eighth Amendment against Dr. Mary Chavez and Nurse Robinson. The claims against Corizon Healthcare and Director of Nursing are **dismissed** and they shall be **terminated as defendants**.

The **clerk is designated** pursuant to *Fed. R. Civ. P.* 4(c)(3) to issue process to defendants Chavez and Robinson in the manner specified by Rule 4(d). Process shall consist of the

complaint, applicable forms (Notice of Lawsuit and Request for Waiver of Service of Summons and Waiver of Service of Summons), and this Entry.

IT IS SO ORDERED.

William G. Lawrence

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

Date: 8/21/17

Distribution:

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