

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
SOUTHERN DIVISION at LONDON

SULIF WILKINS,)	
)	
Plaintiff,)	Civil Case No.
)	6:21-cv-040-JMH
V.)	
)	
OFFICER KEITH, et al.,)	
)	MEMORANDUM OPINION
Defendants.)	AND ORDER

**** **** **** ****

Plaintiff Sulif Wilkins is a federal inmate currently confined at Thomson A USP in Thomson, Illinois. Proceeding without an attorney, Wilkins has filed a civil complaint against prison officials at the United States Penitentiary ("USP")-McCreary [DE 1]. However, Wilkins' complaint will be dismissed without prejudice.

Wilkins has not paid the filing and administrative fees, but has filed a motion for leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. [DE 2]. However, Wilkins' motion is not supported by the financial information required by 28 U.S.C. § 1915(a)(2). Federal law requires that a motion to pay the filing fee in installments filed pursuant to § 1915 be accompanied by "a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period

immediately preceding the filing of the complaint . . . , obtained from the appropriate official of each prison at which the prisoner is or was confined." 28 U.S.C. § 1915(a)(2). The Certificate of Inmate Account submitted by Wilkins has no information regarding his inmate account and is not certified by prison staff. [DE 2-1]. Thus, Wilkins' motion will be denied.

Even so, the Court may conduct a preliminary review of Wilkins' complaint pursuant to 28 U.S.C. §§ 1915(e)(2), 1915A. A district court must dismiss any claim that is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. *Hill v. Lappin*, 630 F.3d 468, 470-71 (6th Cir. 2010); *McGore v. Wrigglesworth*, 114 F.3d 601, 607-08 (6th Cir. 1997). The Court evaluates Wilkins' pleading under a more lenient standard because he is not represented by an attorney. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007); *Burton v. Jones*, 321 F.3d 569, 573 (6th Cir. 2003). At this stage, the Court accepts Wilkins' factual allegations as true and liberally construes Wilkins' legal claims in his favor. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555-56 (2007).

The factual allegation of Wilkins' complaint states that he was left in leg restraints for 17 hours from April 29-30, 2020. [DE 1 at 3]. Based on this allegation, he seeks to bring claims of

"cruel and unusual punishment, negligence, [and] racial and religious discrimination" against Defendants Correctional Officers Keith, Sexton, and Jones and Psychologist Dr. Fields. His complaint makes no demand for relief. [DE 1].

First, Wilkins did not sign his complaint as required by Rule 11(a) of the Federal Rules of Civil Procedure. See Fed. R. Civ. P. 11(a) (requiring that "[e]very pleading, written motion, and other paper must be signed . . . by a party personally if the party is unrepresented."). Nor does Wilkins make a demand for the relief sought, a specific requirement of Federal Rule of Civil Procedure 8(a)(3). See Fed. R. Civ. P. 8(a)(3) (requiring a pleading stating a claim for relief to contain a demand for the relief sought).

In addition, even construing Wilkins' complaint broadly, his bare factual allegation is woefully insufficient to state a claim for which relief may be granted. A civil complaint must set forth claims in a clear and concise manner, and 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). See also Fed. R. Civ. P. 8. "[T]he pleading standard Rule 8 announces does not require detailed factual allegations, but it demands more than an unadorned the-defendant-unlawfully-harmed-me accusation." *Iqbal*, 556 U.S. at 678 (internal quotation marks and citation omitted).

Wilkins' claims of cruel and unusual punishment, negligence, and racial and religious discrimination are based on his sole factual allegation that he was in leg restraints for 17 hours. However, a conclusory claim that defendants violated Wilkins' rights, with no factual allegations supporting such a claim, is insufficient to state a claim for relief. See *Twombly*, 550 U.S. at 555 ("[A] plaintiff's obligation to provide the 'grounds' of his 'entitle[ment] to relief' requires more than labels and conclusions, and a formulaic recitation of a cause of action's elements will not do."); *Laster v. Pramstaller*, 2008 WL 1901250, at *2 (E.D. Mich. April 25, 2008).

Moreover, while *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971), expressly validated the availability of a claim for damages against a federal official in his or her individual capacity, an officer is only responsible for his or her own conduct. *Iqbal*, 556 U.S. at 676-77. See also *Ziglar v. Abbasi*, 137 S.Ct. 1843, 1860 (2017). Thus, in order to recover against a given defendant in a *Bivens* action, the plaintiff "must allege that the defendant [was] personally involved in the alleged deprivation of federal rights." *Nwaebo v. Hawk-Sawyer*, 83 F. App'x 85, 86 (6th Cir. 2003) (citing *Rizzo v. Goode*, 423 U.S. 362, 373-77 (1976)).

Wilkins' allegations are made against the Defendants as a group, with no particular conduct attributed to any specific individual Defendant. However, a "[p]laintiff must state a plausible constitutional violation against each individual defendant—the collective acts of defendants cannot be ascribed to each individual defendant," *Reilly v. Vadlamudi*, 680 F.3d 617, 626 (6th Cir. 2012) (citations omitted). Indeed, "[e]ven a pro se prisoner must link his allegations to material facts . . . and indicate what each defendant did to violate his rights[.]" *Sampson v. Garrett*, 917 F.3d 880, 882 (6th Cir. 2019) (citing *Hill*, 630 F.3d at 471; *Lanman v. Hinson*, 529 F.3d 673, 684 (6th Cir. 2008)). Wilkins failed to do so here.

For all of these reasons, Wilkins' complaint fails to state a claim for which relief may be granted and will be dismissed.

Accordingly, **IT IS ORDERED** as follows:

(1) Wilkins' motion to proceed *in forma pauperis* [DE 2] is **DENIED**.

(2) Wilkins' complaint [DE 1] is **DISMISSED WITHOUT PREJUDICE**.

(3) This action is **DISMISSED** and **STRICKEN** from the Court's docket.

(4) Judgment shall be entered contemporaneously herewith.

This the 15th day of April, 2021.



Signed By:

Joseph M. Hood *JMH*

Senior U.S. District Judge