

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MARK WHITE,

Plaintiff,

vs.

CIVIL ACTION NO. 13-CV-15073

DISTRICT JUDGE AVERN COHN

MAGISTRATE JUDGE MONA K. MAJZOUB

ROSILYN JINDAL, et al.,

Defendants.

OPINION AND ORDER GRANTING PLAINTIFF'S MOTION TO AMEND [13]

Plaintiff Mark white, currently a prisoner at the Gus Harrison Correctional Facility in Adrian, Michigan, filed this action under 42 U.S.C. § 1983 against Defendants Roslyn Jindal (a Physician's Assistant), Corizon Health Incorporated (Corizon) and Correctional Medical Services (CMS)¹ (health-care contractors that provide services to the Michigan Department of Corrections (MDOC)), Paul Klee (the Warden of the Gus Harrison Facility), and Dr. William Nelson (a former MDOC physician). (Docket no. 1 at 1-2.) In his Complaint, Plaintiff alleges that Defendants Jindal, Nelson, Corizon, and CMS violated his Eighth Amendment rights when they were deliberately indifferent to his serious medical needs. (*Id.* at 4.) Plaintiff alleges that Defendant Klee violated his rights under the First, Fifth, Eighth, and Fourteenth Amendments when he "placed plaintiff in grave personal danger of death or physical injury in violation of MDOC policy." (*Id.*) Through his Complaint, Plaintiff seeks "punitive, compensatory & declaratory damages in excess of [\$25,000]

¹Plaintiff alleges that Correctional Medical Services is now known as Corizon. (*See* docket no. 1 at 2.)

on the deliberate indifferent (sic) claims” and “immediate injunctive treatment & transfer to prevent death or physical injury.” (*Id.*)

Before the Court is Plaintiff’s Motion to Amend his Complaint. (Docket no. 13.) Defendants have not filed a Response. All pretrial matters have been referred to the undersigned for consideration. (Docket no. 12.) The Court dispenses with oral argument pursuant to E.D. Mich. LR 7.1(e). The Motion is now ready for ruling.

I. Analysis

Through his Amended Complaint, Plaintiff seeks to add four additional defendants to this matter: (1) Thomas G. Finco, Deputy Director of the MDOC; (2) Bill Collier, the lead psychiatrist at the Gus Harrison facility; (3) Lee McRoberts, the Deputy Warden at the Gus Harrison facility; and (4) C. Condon, a Resident Unit Manager at the Gus Harrison facility. (*See* docket no. 14 at 1.) Plaintiff also seeks to add two additional claims, including claims for violations of the Americans with Disabilities Act, 21 U.S.C. § 12101, and for violations of Michigan’s Handicap Civil Rights Laws, M.C.L. 37.1103. (*Id.* at 2.) Plaintiff’s Amended Complaint also clarifies the facts associated with his original claims and the original Defendants. (*See id.* at 4-7.)

As a matter of course, a party is permitted to amend its pleading “(A) 21 days after serving it, or (B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.” Plaintiff’s Motion to Amend Complaint notes that his Amended Complaint “is filed within the 21 days.” (Docket no. 13 at 1.) Plaintiff’s original Complaint was filed on December 13, 2013, but the Court did not order service until January 16, 2014. (Docket nos. 1 and 7.) Moreover, it appears that the service documents were not provided to the U.S. Marshal’s office until January

22, 2014, six days later. Thus, Plaintiff had until February 12, 2014, to amend his Complaint. Plaintiff purports to have signed his Motion to Amend on February 6, 2014, although it was not filed by the Clerk's office until February 11, 2014. (Docket no. 13.) The envelope in which Plaintiff's Amended Complaint was delivered to the court is postmarked February 7, 2014. Regardless, the Court finds that Plaintiff's Motion to Amend was filed within the 21-day requirement of Rule 15(a)(1). Therefore, the Court will grant Plaintiff's Motion as a matter of course. And because Plaintiff has already been granted *in forma pauperis* status in this matter, the Court will Order the U.S. Marshal to serve Plaintiff's Amended Complaint on the additional Defendants.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Amend [13] is **GRANTED**.

NOTICE TO THE PARTIES

Pursuant to Federal Rule of Civil Procedure 72(a), the parties have a period of fourteen days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. § 636(b)(1).

Dated: March 24, 2014

s/ Mona K. Majzoub
MONA K. MAJZOUB
UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Order was served upon Plaintiff and Counsel of Record on this date.

Dated: March 24, 2014

s/ Lisa C. Bartlett
Case Manager