

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

GERALD KNORR, ~~ALD KNORR,~~

Plaintiff, Plaintiff,

v. v.

Civil Action No. 15-6229 (ES)

OPINION OPINION

EDWARD V. ROCHFORD, et al

I. BACKGROUND

Plaintiff brings this civil rights action, pursuant to 42 U.S.C. § 1983, against Defendants Dr. Gilo, Donna Grubel, and Christopher Klein. The following factual allegations are taken from the Complaint, and are accepted for purposes of this screening only. The Court has made no findings as to the veracity of Plaintiff's allegations.

In his Complaint, Plaintiff alleges that Dr. Gilo, the "jail doctor" at Morris County Jail and Defendant Grubel, "medical supervisor" at the jail, "refused [him] / proposed [him] proper medical care also tried

pleads factual content that allows the court to draw the reasonable and reasonable inferences that the defendant is liable for the misconduct alleged. *Belton v. MB Int'l Partners, Inc., Partners, LLC*, 408 F.3d 470, 483 n.17 (3d Cir. 2012) (quoting *Id.*, 456 U.S. at 678). Moreover, while *pro se* pleadings are liberally construed, “*pro se* litigants still must allege sufficient facts in their complaints to support a claim.” *Mala v. Crown Bay Marina, Inc.* 704 F.3d 239, 245 (3d Cir. 2013) (3d Cir. 2013) (emphasis added) (citation omitted). omitted).

2. Section 1983 Actions 1983 Actions

officials must provide medical care to those confined in jail awaiting trial; see also *Simmons v.*

City of Philadelphia, 947 F.2d 1042, 940 S.W.2d 1042 (3d Cir. 1991) (noting Fourth Amendment provides

at least the same level of medical care for pretrial detainees as the Eighth Amendment does for

convicted prisoners). In order to set forth a cognizable claim for a violation of his right to

adequate medical care, Plaintiff must allege: (1) a serious medical need, and (2) behavior on the

part of prison officials that constitutes deliberate indifference to that need. (See *Estelle v. Gamble*,

429 U.S. 97, 106 A.2d 976; *Natole v. Camden City, Cor. Facility*, 318 F.3d 575, 582 (3d Cir. 2003);

constitutional protections. *Pierce v. Parks*, 520 F. App'x 64, 66 (App'x 64, 66) (3d Cir. 2013) (per curiam),
(citing *Estelle*, (429 U.S. at 105-06); *Singletary v. Pa. Dept. of Corr. Dep't of Corr.*, 266 F.3d 186, 192 n.2 (3d
Cir. 2001). Cir. 2001).

Even assuming that Plaintiff's blood pressure condition is a "serious medical need,"
Plaintiff has failed to meet the requisite deliberate indifference standard. According to the
allegations of the Complaint, Plaintiff is receiving medical care for his blood pressure issue. The
medical staff has prescribed him medication; however, it is not the medication that Plaintiff wants.


unaccompanied by injury or damage are not cognizable under section 1983). Plaintiff has alleged nothing more than verbal “threats” by the jail staff and, consequently, has failed to state a claim.

III. CONCLUSION

For the reasons stated above, the Complaint will be dismissed in its entirety for failure to state a claim upon which relief may be granted pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1). However, because it is conceivable that Plaintiff may be able to supplement his pleading with facts sufficient to overcome the deficiencies noted herein, the Court will grant Plaintiff leave to move to re-open this case and to file an amended complaint.⁴ An appropriate order follows.

Dated:

September 28, 2015



Esther Salas, U.S.D.J.

⁴ Plaintiff should note that when an amended complaint is filed, the original complaint no longer performs any function in the case and “cannot be utilized to cure defects in the amended [complaint], unless the relevant portion is specifically incorporated in the new [complaint].” 6 CHARLES ALAN WRIGHT, ARTHUR R. MILLER & MARY KANE, FEDERAL PRACTICE AND PROCEDURE § 1476 (2d ed. 1990) (footnotes omitted). An amended complaint may adopt some or all of the allegations in the original complaint, but the identification of the particular allegations to be adopted must be clear and explicit. *Id.* To avoid confusion, the safer course is to file an amended complaint that is complete in itself. *Id.*