Copies Mailed/Faxed 7/27/17
Chambers of Vincent L. Briccetti

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

RICHARD ROYAL,

Plaintiff,

v.

ANTHONY ANNUCCI,
CARL J. KOENIGSMANN, M.D.,
KATHLEEN GERBING,
RHONDA MURRAY, and
ESTATE OF DR. HERBERT GOULDING,

Defendants.

----------x

OPINION AND ORDER

16 CV 6517 (VB)

Briccetti, J.:

Plaintiff Richard Royal, proceeding pro se and in forma pauperis, brings this action under 42 U.S.C. § 1983, alleging that while he was incarcerated at Otisville Correctional Facility ("Otisville"), defendants Anthony Annucci, Acting Commissioner of the Department of Corrections and Community Supervision ("DOCCS"); Carl J. Koenigsmann, M.D., Chief Medical Officer of DOCCS; Kathleen Gerbing, Superintendent of Otisville; Rhonda Murray, a Nurse Administrator at Otisville; and the Estate of Dr. Herbert Goulding, were deliberately indifferent to plaintiff's medical needs in violation of his rights under the Eighth Amendment of the United States Constitution.

Before the Court are a motion to dismiss the complaint filed by defendants Annucci, Koenigsmann, Gerbing, and Murray (Doc. #16), and a separate motion to dismiss filed by defendant Estate of Dr. Goulding (Doc. #33).

For the reasons set forth below, the motions to dismiss are GRANTED.

The Court has subject matter jurisdiction under 28 U.S.C. § 1331.

BACKGROUND

For purposes of ruling on a motion to dismiss, the Court accepts all factual allegations of the complaint as true, and draws all reasonable inferences in plaintiff's favor.

On April 28, 2014, plaintiff suffered a "crushing and tearing" injury to his left palm near his thumb while working as a porter at Otisville. (Compl. ¶ 1). Plaintiff was examined by a nurse who cleaned and bandaged plaintiff's wound. Plaintiff continued to experience pain in his hand while the injury healed.

On June 30, 2014, plaintiff reported to sick call to address the ongoing pain he was experiencing in his hand. Plaintiff was examined by Dr. Goulding, who ordered x-rays and prescribed 600 milligrams of ibuprofen to plaintiff. (Compl. ¶ 4).

On July 30, 2014, an x-ray was performed on plaintiff's hand, which did not reveal evidence of an injury that warranted further attention. Nonetheless, plaintiff continued to experience pain and "gradual stiffness" in his hand. (Compl. ¶ 6).

On October 6, 2014, plaintiff reported to sick call due to ongoing pain and swelling in his hand. Plaintiff was examined by non-party Dr. R. Ferdus, who recommended that plaintiff see an orthopedic surgeon. This referral was denied by the Regional Medical Director of DOCCS. Instead, plaintiff was referred to physical therapy.

On January 2, 2015, plaintiff began physical therapy, which continued until April 3, 2015, when plaintiff's physical therapist recommended further evaluation by an orthopedic surgeon. This time, the referral for plaintiff to see an orthopedic surgeon was approved.

On April 16, 2015, plaintiff was evaluated by an orthopedic surgeon. The surgeon administered a cortisone shot and told plaintiff to come back in six weeks. On May 28, 2015, plaintiff returned to the surgeon, still complaining of pain in his hand. The surgeon recommended a surgical procedure, which was denied. Dr. Ferdus also attempted to obtain

approval of the recommended surgery from the Regional Medical Director, but was similarly unsuccessful.

On July 27, 2015, plaintiff filed a grievance with the Inmate Grievance Resolution Committee ("IGRC") for what plaintiff claimed to be a lack of "proper medical attention." (Compl. at 4). The grievance was investigated by Nurse Rhonda Murray, who confirmed surgery was recommended and denied.

On August 17, 2015, plaintiff was examined by Dr. Ferdus, who again recommended that plaintiff see a surgeon. On September 3, 2015, plaintiff was examined by a surgeon who allegedly stated he "could not understand why the surgery was being denied." (Compl. ¶ 18).

Between September 11, 2015, and December 1, 2015, plaintiff made ten trips to sick call concerning the ongoing pain and swelling in his hand.

On November 3, 2015, plaintiff filed another grievance with the IGRC, complaining that Dr. Goulding had either misfiled or not filled out the forms for plaintiff to have surgery. On November 22, 2015, after appealing to Superintendent Kathleen Gerbing, plaintiff's surgery was approved.

On March 9, 2016, plaintiff received hand surgery, twenty months after he first reported to sick call and eleven months after it was first recommended.

DISCUSSION

I. Standard of Review

In deciding a motion to dismiss under Rule 12(b)(6), the Court evaluates the sufficiency of the complaint under the "two-pronged approach" announced by the Supreme Court in Ashcroft v. Iqbal, 556 U.S. 662, 679 (2009). First, plaintiff's legal conclusions and "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements," are not

entitled to the assumption of truth and are thus not sufficient to withstand a motion to dismiss. Id. at 678; Hayden v. Paterson, 594 F.3d 150, 161 (2d Cir. 2010). Second, "[w]hen there are well-pleaded factual allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief." Ashcroft v. Iqbal, 556 U.S. at 679.

To survive a Rule 12(b)(6) motion, the allegations in the complaint must meet a standard of "plausibility." Ashcroft v. Iqbal, 556 U.S. at 678; Bell Atl. Corp. v. Twombly, 550 U.S. 544, 564 (2007). A claim is facially plausible "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. at 678. "The plausibility standard is not akin to a 'probability requirement,' but it asks for more than a sheer possibility that a defendant has acted unlawfully." Id.

Because plaintiff is proceeding pro se, the Court must construe his submissions liberally and "interpret them to raise the strongest arguments that they suggest." Pabon v. Wright, 459 F.3d 241, 248 (2d Cir. 2006) (internal citation omitted). Applying the pleading rules permissively is particularly appropriate when, as here, a pro se plaintiff alleges civil rights violations. See Sealed Plaintiff v. Sealed Defendant, 537 F.3d 185, 191 (2d Cir. 2008). "Even in a pro se case, however . . . threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." Chavis v. Chappius, 618 F.3d 162, 170 (2d Cir. 2010) (internal citation omitted). Nor may the Court "invent factual allegations [plaintiff] has not pled." Id.

II. Analysis

A. Personal Involvement of Annucci, Gerbing, Koenigsmann, and Murray

Defendants argue that Annucci, Gerbing, Koenigsmann, and Murray were not personally involved in any alleged constitutional violation, and accordingly the complaint should be dismissed as against them.

The Court agrees.

"To state a claim under § 1983, a plaintiff must allege (1) the deprivation of a right secured by the Constitution or laws of the United States (2) which has taken place under color of state law." Rodriguez v. Weprin, 116 F.3d 62, 65 (2d Cir. 1997). Plaintiff must also allege defendants' personal involvement in the claimed violation of plaintiff's rights. Provost v. City of Newburgh, 262 F.3d 146, 154 (2d Cir. 2001). In other words, a plaintiff bringing a Section 1983 claim "must plead that each Government-official defendant, through the official's own individual actions, has violated the Constitution." Ashcroft v. Iqbal, 556 U.S. at 676.

A supervisor's personal involvement in an alleged constitutional violation may be established if:

> "(1) actual direct participation in the constitutional violation, (2) failure to remedy a wrong after being informed through a report or appeal, (3) creation of a policy or custom that sanctioned conduct amounting to a constitutional violation, or allowing such a policy or custom to continue, (4) grossly negligent supervision of subordinates who committed a violation, or (5) failure to act on information indicating that unconstitutional acts were occurring."

Richardson v. Goord, 347 F.3d 431, 435 (2d Cir. 2003) (internal quotation omitted).[1]

---

[1] After Ashcroft v. Iqbal, district courts within the Second Circuit have been divided as to whether claims alleging personal involvement under the second, fourth, and fifth of these factors remain viable. See Marom v. City of New York, 2016 WL 916424, at *15 (S.D.N.Y. Mar. 7, 2016) (collecting cases). The Second Circuit has yet to resolve this dispute. Id.

With respect to Annucci, plaintiff argues that as Acting Commissioner of DOCCS, Annucci should have eventually become aware of plaintiff's issues receiving medical treatment through the chain of command. (Pl.'s Affirm. at 3). Plaintiff further argues Annucci is liable because he "is responsible for all aspects of the smooth running of [DOCCS]." (Compl. at 5). However, "mere linkage in the prison chain of command" is insufficient to implicate a state commissioner of corrections or a prison superintendent in a § 1983 claim." Richardson v. Goord, 347 F.3d at 435. Moreover, plaintiff alleges no facts indicating Annucci would have learned of plaintiff's issues with his hand. See Sealey v. Coughlin, 857 F. Supp. 214, 218 (N.D.N.Y. 1994), aff'd in part, rev'd in part sub nom., Sealey v. Giltner, 116 F.3d 47 (2d Cir. 1997) (Commissioner of DOCCS "not under the obligation to review every one of the thousands of cases dealt with" by those underneath him).

Accordingly, plaintiff fails to allege Annucci was personally involved in any alleged constitutional violation.

As to Gerbing, plaintiff argues Gerbing should have become aware of plaintiff's issues from reading plaintiff's grievance. (Compl. at 5). However, the mere fact that Gerbing received plaintiff's grievance is not itself enough to involve her in any alleged constitutional violation. See Joyner v. Greiner, 195 F. Supp. 2d 500, 506 (S.D.N.Y. 2002) ("The fact that Superintendent Greiner affirmed the denial of plaintiff's grievance—which is all that is alleged against him—is insufficient to establish personal involvement or to shed any light on the critical issue of supervisory liability, and more particularly, knowledge on the part of the defendant.") (internal quotation omitted).

Moreover, as with Annucci, plaintiff cannot establish Gerbing's liability solely based on her position in the DOCCS hierarchy. See Richardson v. Goord, 347 F.3d at 435.

Additionally, Gerbing approved x-rays for plaintiff upon receiving plaintiff's July 17, 2014, grievance, and eventually approved plaintiff's November 3, 2015, grievance, which resulted in plaintiff's surgery. (Compl. at 4–5). Accordingly, even if Gerbing was aware of plaintiff's problem, she remedied the existing wrong and was thus not personally involved in any alleged constitutional violation. See Richardson v. Goord, 347 F.3d at 435 (personal involvement requires a "failure to remedy a wrong") (emphasis added).

Plaintiff also argues Gerbing passed off the grievances to her supervisors, but this is precisely the procedure Gerbing had a duty to follow. See 7 N.Y.C.R.R. § 701.5(d)(1) (any appeals of a grievance from the Superintendent go to the Central Office Review Committee).

Accordingly, because plaintiff fails to allege Gerbing was personally involved in any alleged constitutional violation, plaintiff's claims against her must be dismissed.

Likewise, plaintiff fails to allege the personal involvement of Dr. Koenigsmann. The Second Circuit has held a Chief Medical Officer's receipt of a prisoner's letters is insufficient to establish personal liability. Goris v. Breslin, 402 F. App'x 582, 584 (2d Cir. 2010) (summary order).[2] Moreover, plaintiff does not even allege Dr. Koenigsmann received any of plaintiff's grievances, nor should any assumption be made that Dr. Koenigsmann knew of plaintiff's situation. Much like Annucci, Dr. Koenigsmann is "not under an obligation to personally review, investigate and respond to every one of the thousands of letters dealt with by his staff." Goris v. Breslin, 2009 WL 1955607, at *7 (E.D.N.Y. July 6, 2009), aff'd, 402 F. App'x 582 (2d Cir. 2010) (summary order). In fact, plaintiff specifically alleges it was the Regional Medical Director—who is not a named defendant—who denied plaintiff's requests for medical assistance.

---

[2] Plaintiff will be provided with copies of all unpublished opinions cited in this decision. See Lebron v. Sanders, 557 F.3d 76, 79 (2d. Cir. 2009).

(Compl. ¶¶ 10, 16). Plaintiff, therefore, has not alleged that Dr. Koenigsmann was personally involved in any alleged constitutional violation. See Moore v. Wright, 2008 WL 4186340, at *5 (N.D.N.Y. Sept. 10, 2008) (finding the Chief Medical Officer not involved when Regional Medical Director affirmed previous administrative denials).

Finally, as to defendant Murray, plaintiff first concedes "he does not have a valid argument to put [Nurse Administrator] Murray in the same area of influence as the other defendants." (Pl.'s Affirm. ¶ 5). Plaintiff alleges Murray investigated plaintiff's grievance (Compl. at 4), but "[d]istrict courts in this circuit have routinely held that a nurse administrator who investigates a grievance does not become personally involved in the underlying constitutional violation." Williams v. Smith, 2015 WL 1179339, at *8 (N.D.N.Y. Mar. 13, 2015) (collecting cases). Moreover, plaintiff states no additional facts connecting Murray with the allegedly inadequate medical care he received.

Accordingly, plaintiff fails to allege Murray was personally involved in any alleged constitutional violation.

B. Deliberate Indifference of Dr. Goulding

Defendant Estate of Dr. Goulding argues plaintiff has failed to plead Dr. Goulding's deliberate indifference to plaintiff's serious medical needs.

The Court agrees.

To assert a claim for constitutionally inadequate medical care under the Eighth Amendment's ban against cruel and unusual punishment, plaintiff must allege "acts or omissions sufficiently harmful to evidence deliberate indifference to serious medical needs." Estelle v. Gamble, 429 U.S. 97, 106 (1976). This test has both an objective and a subjective component: plaintiff must plead facts showing (i) the alleged deprivation of medical care is "sufficiently

serious," and (ii) the officials in question acted with a "sufficiently culpable state of mind." Salahuddin v. Goord, 467 F.3d 263, 279–80 (2d Cir. 2006).

The objective component has two subparts. "The first inquiry is whether the prisoner was actually deprived of adequate medical care," keeping in mind that only "reasonable care" is required. Salahuddin v. Goord, 467 F.3d at 279 (citing Farmer v. Brennan, 511 U.S. 825, 839–40 (1970)). "Second, the objective test asks whether the inadequacy in medical care is sufficiently serious" by examining "how the offending conduct is inadequate and what harm, if any, the inadequacy has caused or will likely cause the prisoner." Salahuddin v. Goord, 467 F.3d at 280 (citing Helling v. McKinney, 509 U.S. 25, 32–33 (1993)).

In determining whether an alleged injury is a "serious" medical condition, "factors that have been considered include [t]he existence of an injury that a reasonable doctor or patient would find important and worthy of comment or treatment; the presence of a medical condition that significantly affects an individual's daily activities; or the existence of chronic and substantial pain." Chance v. Armstrong, 143 F.3d 698, 702 (2d Cir. 1998) (internal quotation omitted). In cases challenging the adequacy of the medical treatment that was given, "the seriousness inquiry is narrower. For example, if the prisoner is receiving on-going treatment and the offending conduct is an unreasonable delay or interruption in that treatment, the seriousness inquiry 'focuses on the challenged delay or interruption in treatment rather than the prisoner's underlying medical condition alone.'" Salahuddin v. Goord, 467 F.3d at 280 (quoting Smith v. Carpenter, 316 F.3d 178, 185 (2d Cir. 2003)).

The subjective component requires a showing that defendants were aware of plaintiff's serious medical needs and consciously disregarded a substantial risk of serious harm. Salahuddin v. Goord, 467 F.3d at 280. "[T]he charged official must act with a sufficiently

culpable state of mind." Id. (quoting Wilson v. Seiter, 501 U.S. 294, 300 (1991)). It is well established that "negligence, even if it constitutes medical malpractice, does not, without more," give rise to a constitutional claim. Chance v. Armstrong, 143 F.3d at 703.

Plaintiff has alleged a sufficiently "serious medical condition" within the meaning of the deliberate indifference standard. Plaintiff alleges he "received a crushing and tearing injury to [his] left palm near [his] thumb joint" (Compl. ¶ 1), and states that surgery later revealed a fracture in his hand. (Pl.'s Affirm. ¶ 3). Plaintiff further alleges he suffered consistent and chronic pain that produced "gradual stiffness" and swelling in his hand. (Compl. ¶¶ 6, 9, 19). Courts in this circuit have found hand injuries, including broken bones, to constitute a sufficiently serious medical injury. See, e.g., Youngblood v. City of New York, 2016 WL 3919650, at *4 (S.D.N.Y. June 27, 2016); Vining v. Dep't of Corr., 2013 WL 2036325, at *5 (S.D.N.Y. Apr. 5, 2013) (collecting cases); see also Paul v. Bailey, 2013 WL 2896990, at *9 (S.D.N.Y. June 13, 2013) (significant chronic pain may constitute a serious medical condition).

Moreover, plaintiff's second facility doctor, physical therapist, and surgeon all allegedly recommended surgery, which tends to support a claim that plaintiff's hand injury was in fact serious. Brock v. Wright, 315 F.3d 158, 162 (2d Cir. 2003) ("[W]hether a reasonable doctor . . . would perceive the medical need in question as important and worthy of comment or treatment" is a factor weighing in favor of satisfaction of the objective prong of an Eighth Amendment claim) (internal quotation marks omitted).

Plaintiff does not, however, adequately allege that Dr. Goulding acted with deliberate indifference to his serious medical needs—i.e., plaintiff fails to plead the subjective prong of a deliberate indifference claim. Plaintiff claims Dr. Goulding treated plaintiff by ordering x-rays and prescribing pain killers, neither of which relieved plaintiff's lingering pain. (Pl.'s Affirm. ¶

3). Plaintiff contends that because Dr. Goulding prescribed ineffectual treatment—x-rays that did not discover the fracture and medication (ibuprofen) that is allegedly dangerous—Dr. Goulding's medical care of plaintiff was inadequate, which establishes deliberate indifference. (Id. ¶¶ 3, 6).

However, the fact that these treatments were allegedly ineffective does not make them constitutionally inadequate.

First, that plaintiff may have preferred a different method of treatment does not render the chosen method constitutionally inadequate. Chance v. Armstrong, 143 F.3d at 703 ("[M]ere disagreement over the proper treatment does not create a constitutional claim. So long as the treatment given is adequate, the fact that a prisoner might prefer a different treatment does not give rise to an Eighth Amendment violation."). This is also true where two medical professionals prescribed different methods of treatment. Williams v. M.C.C. Inst., 1999 WL 179604, at *7 (S.D.N.Y Mar. 31, 1999) ("[A] difference of opinion . . . among medical professionals themselves[] as to the appropriate course of medical treatment does not in and of itself amount to deliberate indifference."). Thus, the fact that Dr. Ferdus recommended a different course of action does not necessarily support plaintiff's claim that Dr. Goulding provided constitutionally inadequate medical care.

Second, while it may be true that the x-rays did not reveal the fracture in plaintiff's hand, and these x-ray results may well have informed Dr. Goulding's allegedly ineffectual treatment (i.e., prescribing pain medication rather than surgery), "a delay in treatment based on a bad diagnosis or erroneous calculus of risks and costs, or a mistaken decision not to treat based on an erroneous view that the condition is benign or trivial or hopeless . . . will not constitute deliberate

indifference." Sloane v. Borawski, 64 F. Supp. 3d 473, 493 (W.D.N.Y. 2014) (citing Harrison v. Barkley, 219 F.3d 132, 139 (2d Cir. 2000)).

Third, by his own account, plaintiff was examined and treated by Dr. Goulding, and plaintiff has alleged no facts from which it could be inferred that Dr. Goulding knew of and disregarded "an excessive risk to [plaintiff's] health or safety." See Farmer v. Brennan, 511 U.S. at 837.

Finally, plaintiff has alleged at most that Dr. Goulding was negligent in his initial treatment of plaintiff, specifically by not discovering the fracture, prescribing allegedly dangerous medication (Pl.'s Affirm. ¶¶ 2–3), and submitting or otherwise misfiling forms that would have enabled plaintiff to receive surgery. (Compl. at 5). However, as noted above, mere negligence or even medical malpractice does not meet the threshold for deliberate indifference. Chance v. Armstrong, 143 F.3d at 703; see also Estelle v. Gamble, 429 U.S. at 106.

Accordingly, plaintiff's claims against Dr. Goulding must be dismissed.

III. Leave to Amend

A district court ordinarily should not dismiss a pro se complaint for failure to state a claim "without granting leave to amend at least once when a liberal reading of the complaint gives any indication that a valid claim might be stated." Cuoco v. Moritsugu, 222 F.3d 99, 112 (2d Cir. 2000) (quoting Gomez v. USAA Fed. Sav. Bank, 171 F.3d 794, 795 (2d Cir. 1999)). A court must grant leave to amend "unless the court can rule out any possibility, however unlikely it might be, that an amended complaint would succeed in stating a claim." Gomez v. USAA Fed. Sav. Bank, 171 F.3d 794, 796 (2d Cir. 1999).

Here, the complaint, even liberally construed, does not contain allegations suggesting plaintiff has valid deliberate indifference claims against any of the named defendants that

plaintiff has merely "inadequately or inartfully pleaded" and therefore should "be given a chance to reframe." Cuoco v. Moritsugu, 222 F.3d at 112. On the contrary, the Court finds that repleading would be futile because the problems with plaintiff's claims are substantive, and supplementary or improved pleading will not cure the deficiencies of the complaint. See id. Accordingly, the Court declines to grant plaintiff leave to amend his complaint against the named defendants.

However, the Court sua sponte grants plaintiff leave to file an amended complaint to assert a claim against the Regional Medical Director. Should plaintiff choose to file an amended complaint, plaintiff is directed to include in his amended complaint (i) the identity of the Regional Medical Director, including his or her name and address, and (ii) all relevant facts plaintiff may truthfully allege against the Regional Medical Director. To be clear, plaintiff may not attempt to re-plead his claims against any other defendant.

Because the amended complaint will completely replace the original complaint, plaintiff should include in the amended complaint all information necessary to state a claim against the Regional Medical Director.

If plaintiff chooses to amend, the deadline to submit his amended complaint containing all of his allegations against the Regional Medical Director is August 31, 2017.

The Court expresses no opinion as to whether an amended complaint naming the Regional Medical Director would survive a motion to dismiss.

CONCLUSION

Defendants' motions to dismiss are GRANTED.

The Clerk is instructed to terminate the motions (Docs. ##16, 33).

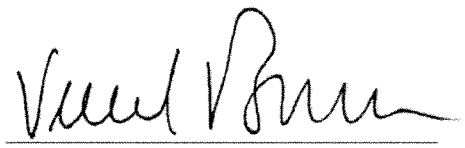
The Clerk is further instructed to mail a copy of this Opinion and Order to plaintiff.

Plaintiff is granted leave to file an amended complaint as to the Regional Medical Director only. Plaintiff's amended complaint, if any, shall be filed by August 31, 2017, in accordance with Part III above. Plaintiff is directed to utilize the amended complaint form attached hereto. If plaintiff fails to submit or chooses not to submit an amended complaint by August 31, 2017, the Court will dismiss this case.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. See Coppedge v United States, 369 U.S. 438, 444-45 (1962).

Dated: July 27, 2017
White Plains, NY

SO ORDERED:



Vincent L. Briccetti
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

_____

_____
Write the full name of each plaintiff.

No. _____
(To be filled out by Clerk's Office)

-against-

AMENDED
COMPLAINT
(Prisoner)

_____

_____

_____

_____
Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.

Do you want a jury trial?
☐ Yes ☐ No

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. LEGAL BASIS FOR CLAIM

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "*Bivens*" action (against federal defendants).

☐ Violation of my federal constitutional rights

☐ Other: _____

II. PLAINTIFF INFORMATION

Each plaintiff must provide the following information. Attach additional pages if necessary.

_____

First Name Middle Initial Last Name

_____

State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

_____

Prisoner ID # (if you have previously been in another agency's custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

_____

Current Place of Detention

_____

Institutional Address

_____

County, City State Zip Code

III. PRISONER STATUS

Indicate below whether you are a prisoner or other confined person:

☐ Pretrial detainee

☐ Civilly committed detainee

☐ Immigration detainee

☐ Convicted and sentenced prisoner

☐ Other: _____

IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1:

First Name Last Name Shield #

Current Job Title (or other identifying information)

Current Work Address

County, City State Zip Code

Defendant 2:

First Name Last Name Shield #

Current Job Title (or other identifying information)

Current Work Address

County, City State Zip Code

Defendant 3:

First Name Last Name Shield #

Current Job Title (or other identifying information)

Current Work Address

County, City State Zip Code

Defendant 4:

First Name Last Name Shield #

Current Job Title (or other identifying information)

Current Work Address

County, City State Zip Code

V. STATEMENT OF CLAIM

Place(s) of occurrence: _____

Date(s) of occurrence: _____

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and how each defendant was personally involved in the alleged wrongful actions. Attach additional pages as necessary.

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

VI. RELIEF

State briefly what money damages or other relief you want the court to order.

VII. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

Dated	Plaintiff's Signature

First Name	Middle Initial	Last Name

Prison Address

County, City	State	Zip Code

Date on which I am delivering this complaint to prison authorities for mailing: _____