

United States District Court
Southern District of Indiana
Indianapolis Division

FILED**09/20/2023**

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
Roger A.G. Sharpe, Clerk

Kevin Bennett
Plaintiff,

US.

Samantha Ball, et al,
Defendants

CASE NO. 2:23-cv-00457-JMS-MJD
Complaint 42 U.S.C. §1983
AND
DAMAND FOR JURY TRIAL

VERIFIED COMPLAINT FOR DAMAGES UNDER 42 U.S.C. §1983 CIVIL LAWSUIT COMPLAINT

I. INTRODUCTION

1.) Plaintiff, Kevin Bennett, an Indiana Federal detainee, currently incarcerated in the United States Marshal's custody, was housed at the Knox County Jail, in Vincennes, Indiana, has filed this civil action prose complaint, for damages under the 42 U.S.C. §1983, alleging an inadequate medical care claim, excessive force, and cruel and unusual punishment under the deliberate indifference standard in violation of the U.S. Const, Amend XIV/Fourteenth. Due to Plaintiff being a pretrial detainee, his claims must prevail under the Fourteenth Amendment and not the Eighth Amendment because he is not sentence when these claims occurred. Attached hereto and incorporated by reference is Plaintiff account balance transaction history with my motion to proceed in forma pauperis

II. Jurisdiction & Venue

- 2.) This is a civil action authorized by 42 U.S.C. Section 1983 to redress the deprivation, under color of state law of right secured by the Constitution of the ~~the~~ United States. The Court has Jurisdiction under 28 U.S.C. section 1331 and 1343(A)(3)
- 3.) The Plaintiff claims The Southern District of Indiana, Indianapolis Division is an appropriate venue under 28 U.S.C. section 1391(C)(2) because it is the District where the events giving rise to this claim occurred.

III. Parties

4.) Plaintiff, Kevin Bennett, with his D.O.B being 07/11/42, was incarcerated at the Knox County Jail, at the address below, during the time of his claim rise to this complaint.

5.) Kevin Bennett was housed at the Knox County Jail, located at 2375 South Old Decker Road, Vincennes, Indiana 47591

6.) Plaintiff is a qualified individual with a disability under the ADA.

IV. WITNESS

7.) Adam Sporn is an inmate that was housed with Plaintiff, in the same pod when some of these events took place. Attached to this prose complaint is his sworn Affidavit. Neither Mr. Sporn or Plaintiff could get a notary at the Knox County Jail, because there is no notary there.

V. DEFENDANTS

8.) Defendant Samantha Ball is a nurse employed by Quality Correctional Care, at all times mentioned in this complaint held the head nurse rank at the Knox County Jail.

9.) Defendant Sergeant Dylan Runor, is a correctional Sergeant of the Knox County Jail, at all times mentioned in this complaint.

10.) Defendant ~~Sergeant~~ ^{Sergeant} Michael Hicks, is a correctional Sergeant of the Knox County Jail, at all times mentioned in this complaint.

11.) Defendant ~~Sergeant~~ North Miller, is a correctional Sergeant of the Knox County Jail, at all times mentioned in this complaint.

12.) Defendant Tyler Borden, is a correctional officer of the Knox County Jail at all times mentioned in this complaint.

13.) Defendant Officer Barrett, is a correctional officer of the Knox County Jail at all times mentioned in this complaint.

VI. EXHAUSTION OF ADMINISTRATIVE REMEDIES

14.) Plaintiff filed grievances on Defendant Samantha Ball: [grievance numbers; #7384910, #7426714, #7466490, #7477480, #7574763, #7633273]. Plaintiff filed numerous of grievances in regards of Defendant Ball, but the grievance officer Michael Kolhouse prevented the Jail Commander and Sheriff to respond back to some of the grievances, as stated in Knox County Jail inmate grievance policy, due to Plaintiff telling Mr. Kolhouse that he was going to file an civil lawsuit. Plaintiff notified Mr. Kolhouse that the kiosk at the Knox County Jail only give you an option to file a grievance, but it doesn't give an inmate the option to select what type of grievance you're filing. Plaintiff also put in a inmate request form on the kiosk asking to have the sheriff review the grievances due to him having the last say so, but nothing never happened.

15.) Plaintiff filed grievances on Defendant Dylan Runor: [grievances numbers; #7487758, #7540736, #7579110, #7635295]. As stated in the above paragraph (14), Plaintiff ^{filed} numerous of grievances in regards of Defendant Runor, but the Grievance officer Mr. Kolhouse prevented the Jail commander and sheriff to respond back, as stated in Knox County Jail inmate grievance policy.

16.) Plaintiff filed grievances on Defendant Michael Hicks: [grievance numbers; #7597730, #7606483, #7615795, #7633217]. As stated in the above paragraph (14), Plaintiff filed numerous of grievances in regards of Defendant Hicks but the Grievance officer Mr. Kolhouse prevented the Jail Commander and sheriff to respond back, as stated in Knox County Jail inmate grievance policy.

17.) Plaintiff was unable to file grievances on Defendant Miller, Borden, and Barrett, due to the grievance process being unavailable to him. Plaintiff claims happened on 8-27-23 after his scheduled one hour rec, on 8-28-23 was unable to login to the kiosk, on 8-29-23 Plaintiff was unable to login to the kiosk, and had court all that day on 8-30-23, Plaintiff was transfer to another different Jail, at approximately 8:00am.

VII CAUSE(S) OF ACTION WITH SUPPORTING FACTS

- 18.) On July 20, 2023 at Approximately 5:00pm, Plaintiff notified an officer on the speaker inside his cell that he was having trouble breathing and needed a breathing treatment.
- 19.) That officer stated that he will notify Defendant Ball.
- 20.) Plaintiff then reminded the officer that came and picked up the dinner trays about his breathing treatment.
- 21.) That officer stated she said Defendant Ball knows.
- 22.) Plaintiff repeatedly asked for a breathing treatment for over two(2) hours.
- 23.) An officer came over Plaintiff speaker inside his cell and said that Defendant Ball stated that the officers will have to check Plaintiff oxygen level in order for him to receive an breathing treatment.
- 24.) Plaintiff told that officer that its not in Quality Correctional Care policy that anytime an inmate that has asthma ask for a breathing treatment have to have they oxygen level check in order to have a breathing treatment.
- 25.) Defendant Ball always gave Plaintiff a breathing treatment when he request one, but only doing this because Plaintiff called her Fat and Ugly enrice that same day.
- 26.) At Approximately 7:20am. Plaintiff was found on his cell floor unresponsive by officers due to him passing out, because ~~he~~ he couldn't breathe.
- 27.) Inmates inside Plaintiff pod started to kick on they cell doors, and came to Plaintiff cell door, rolled it, and came inside to wake him back conscious, and help him off the floor.
- 28.) Plaintiff told ~~him~~ them that he needed to see Defendant Ball due to him passing out, and being unconscious.
- 29.) Defendant Ball was notified over the radio, and she said no she wasn't seeing the Plaintiff, hes not getting a breathing treatment, and he's not getting his inhaler due to him getting it enrice in the day.
- 30.) Officers then left Plaintiff cell and nothing happened that night.
- 31.) Plaintiff believe he suffered a concussion from hitting his head and passing out due to him not being able to breathe.
- 32.) Plaintiff had real bad back pain, and his head was hurting for days from him having a huge knot on the side of his head.
- 33.) On July 30, 2023 at approximately 5:30pm. Plaintiff ask an officer over the speaker in his cell if he was getting pulled out to review his discovery.
- 34.) The officer told him "NO" due to his behavior on the day shift.
- 35.) Plaintiff called him a derogatory name: "Bitch".
- 36.) Approximately three(3) minutes later Defendant Rumor, and three(3) other officers came to Plaintiff cell front and told him to cuff up.
- 37.) Plaintiff asked why?
- 38.) Defendant Rumor stated because Plaintiff was kicking on his door.
- 39.) Plaintiff told Defendant Rumor that he was lying, and showed him a piece of wet toilet paper that he had over his speaker so the control room couldn't hear inside his cell.
- 40.) Defendant Rumor then rolled Plaintiff cell door and put him in hand restraints.

- 41.) Plaintiff complied and never resisted.
- 42.) Defendant Rumor, and the three (3) officers then took Plaintiff to the restraint chair.
- 43.) Plaintiff told Defendant Rumor that he's using the restraint chair as a form of punishment and that he doesn't have an legitimate reason to put Plaintiff in it.
- 44.) Defendant Rumor then stated he's protecting Plaintiff from hurting his self, by putting him in the restraint chair.
- 45.) Defendant Rumor trying to justify his actions by putting Plaintiff in a restraint chair for hours.
- 46.) Plaintiff was in the restraint chair and asked Defendant Rumor if he could use the restroom, because he been holding it for two (2) plus hours.
- 47.) Defendant Rumor said "NO", and to use it on yourself because most people do while they in the restraint chair.
- 48.) Plaintiff then tried to hold it but couldn't and defecated and urinated on his self while in the restraint chair.
- 49.) Plaintiff told Defendant Rumor that he use the restroom on his self, and Defendant Rumor laughed and stated "I hope you feel like a big little kid now."
- 50.) Plaintiff told Defendant Rumor that his legs were sleep and he needed to stretch them out.
- 51.) Defendant Rumor stated Plaintiff could stretch his legs out after he gets out of the restraint chair, because he wasn't letting him out the chair no time soon.
- 52.) Plaintiff had suffered from real bad back pain, and he loss his feelings in his ~~right~~ toes in his right feet for approximately a week from the straps on the chair being to tight around his foot.
- 53.) On August 14, 2023 Plaintiff was being escorted back to his cell from seeing the medical doctor.
- 54.) As he got to his cell to allow the officers take off the handcuffs, Defendant Hicks pulled on the cuffs and pulled Plaintiff Arms thru the cuffpost.
- 55.) Defendant Hicks then grabbed Plaintiff thumb and pulled on it trying to maliciously cause pain to Plaintiff.
- 56.) Defendant Hicks then grabbed Plaintiff right index finger and pulled it, and Plaintiff felt his finger snapped.
- 57.) Plaintiff believed that he had a broken finger, due to how it looked when Defendant Hicks pulled on it maliciously, causing excruciating pain.
- 58.) Plaintiff also had a 6x6 bruise on his left upper Arm from Defendant Hicks pulling his Arm thru the cuffpost.
- 59.) Plaintiff was in excruciating pain from Defendant Hicks using excessive force on him.
- 60.) On August 27, 2023 at approximately 4:15 P.M. Defendant Miller told Plaintiff to cuff up due to him cussing out a nurse.
- 61.) Plaintiff asked why do he have to cuff up for.
- 62.) Defendant Miller stated Plaintiff was going to the restraint chair for disruption of the operation of the jail facility.
- 63.) Plaintiff told Defendant Miller that he couldn't place him in a restraint chair for being loud and cussing out the nurse, and that he's trying to use the restraint chair as a form of punishment.
- 64.) Defendant Miller then rolled Plaintiff cell door, and told him to cuff up.
- 65.) Plaintiff turned around and cuffed up and comply with orders.
- 66.) Plaintiff never resist.
- 67.) Plaintiff was then taken out the pod, and escorted to the restraint chair.

68.) As Plaintiff was being escorted to the restraint chair, as he got to the hallway he seen and walked pass the nurse that he cussed out.

69.) As Plaintiff walked passed the nurse he acted like he hawked up some spit, and made a spit noise with his mouth toward the nurse.

70.) But saliva never left Plaintiff mouth, Plaintiff then said "with your scary ass!"

71.) Defendant Miller then grabbed Plaintiff by his dreadlocks, pulled ~~him~~ him by his hair, and maliciously threw him to the floor, by smashing his face into the floor.

72.) Plaintiff was kicked several times by Defendant Barrett, while he was on the floor in cuffs, while Defendant Miller was on top of him.

73.) Plaintiff was then punched in the face repeatedly by Defendant Borden.

74.) Plaintiff had a big bruise in the inside of his lip, his right eye was swollen, and his mouth was bleeding from Defendant Borden punching him maliciously.

75.) Plaintiff also had a big knot on his forehead from Defendant Miller smashing his face into the floor while he was in handcuffs.

76.) This can all be seen on Knox County Jail video footage in the hallway and on Defendant Miller, Borden, and Barrett body camera.

77.) Plaintiff was then picked up from the floor and escorted to the restraint chair.

78.) Plaintiff was in the restraint chair for hours.

79.) Plaintiff asked the Correctional officers if he could use the restroom.

80.) They stated Defendant Miller said "NO" and not until Plaintiff get out the restraint chair.

81.) Plaintiff then urinated on himself due to being in the restraint chair for hours, and not being able to use the restroom.

82.) Plaintiff was then taken out of the restraint chair, and placed inside a book-in cell.

83.) Plaintiff was schedule to see the medical doctor the very next day on August 28, 2023, for previous health care request forms he submitted.

84.) When Plaintiff seen the doctor he was bias toward the Plaintiff, due to Plaintiff being accused of spitting on the nurse, and he didnt do an adequately.

85.) As Plaintiff told the medical doctor that he had (injuries) he stated that he wasn't taken the spit mask off of the Plaintiff to evaluate him, and he stated that Plaintiff should of never spit on his nurse.

86.) Plaintiff kept telling this doctor he need to see him because he was in pain.

87.) The doctor said "He's done im not about to Argue with him!"

88.) Plaintiff was then escorted back to his cell by officers.

89.) Plaintiff was never able to put in a health care request form for his injuries on the kiosk, due to him not being able to login onto the kiosk.

90.) Plaintiff was transfer to another county jail on August 30, 2023.

VIII. LEGAL CLAIMS

- 91.) Plaintiff re-alleges and incorporates by reference Paragraphs 1-90.
- 92.) The inadequate medical care claim against Samantha Ball for intentionally, knowingly, willfully, and with gross disregard of Plaintiff rights by refusing him A breathing treatment, his inhaler, and necessary medical care to Plaintiff due to him having trouble breathing.
- 93.) The cruel and unusual punishment claim against Defendant Dylan Kumar for intentionally, knowingly, willfully, with gross disregard of Plaintiff rights by intentionally leaving Plaintiff in the restraint chair for hours and not letting him get to use the restroom or stretch his legs
- 94.) The excessive force claim against Defendant Michael Hicks for intentionally, knowingly, willfully, and with gross disregard of Plaintiff rights by grabbing Plaintiff index finger and maliciously causing harm, and by pinning his arms thru the cuffport (in bad faith)
- 95.) The excessive force claim against Defendant Miller, Defendant Borden, and Defendant Barrett for intentionally, knowingly, willfully, and with gross disregard of Plaintiff rights by grabbing Plaintiff by his hair and throwing him to the ground, smashing his face into the floor, kicking him, and punching him, then leaving him in the restraint chair for hours without being able to use the restroom.
- 96.) The actions by each Defendant alleged above, were acts and/or omissions done maliciously, and sadistically (in bad faith) to cause harm and cause Plaintiff pain, suffering, emotional distress, mental anguish, and psychological damage, and subjecting him to cruel and unusual punishment under the deliberate indifference standard to the United States Constitution.
- 97.) The actions alleged above, also were taken by each Defendant's willful, in wanton, callous, and knowing disregard of the rights of Plaintiff under the law. Plaintiff should be awarded punitive damages in an amount sufficient to deter the individual Defendants from repeating their intentionally injurious conduct

IX. REQUEST FOR RELIEF

WHEREFORE, the Plaintiff Kevin Bennett, prose, respectfully PRAYS that this court enter judgment:

A) Granting Plaintiff compensatory Damages to be paid severally in the Amount of:

- 1.) 150,000 (ONE-HUNDRED AND FIFTY THOUSAND DOLLARS) against Defendant Ball
- 2.) 150,000 (ONE-HUNDRED AND FIFTY THOUSAND DOLLARS) against Defendant Kumar
- 3.) 150,000 (ONE-HUNDRED AND FIFTY THOUSAND DOLLARS) against Defendant Hicks
- 4.) 150,000 (ONE-HUNDRED AND FIFTY THOUSAND DOLLARS) against Defendant Miller
- 5.) 150,000 (ONE-HUNDRED AND FIFTY THOUSAND DOLLARS) against Defendant Borden
- 6.) 150,000 (ONE-HUNDRED AND FIFTY THOUSAND DOLLARS) against Defendant Barrett

B) Granting Plaintiff punitive Damages to be paid jointly and severally in the amount of 200,000 (Two-HUNDRED THOUSAND DOLLARS) against each Defendant in this said case;

C) Plaintiff also seeks a jury trial on all issues triable by a jury

D) Plaintiff also seeks recovery of his costs in this suit; and,

E) any additional relief this court deems just, proper, and equitable

VERIFICATION

I have read the foregoing complaint and hereby verify that the matters alleged therein set forth are true, except as to matters alleged on information and belief, and as to those I believe them to be true, as well as the attached direct evidence I believe it to be true.

Respectfully Submitted

Kevin Bennett / Plaintiff / Pro Se

Kevin Bennett / Plaintiff / Pro Se

Grayson County Detention Center

320 Shaw Station Road

Leitchfield, Kentucky 42754