

# \*\*\* PUBLIC DOCKET \*\*\*

## U.S. District Court Southern District of Indiana (Terre Haute) CIVIL DOCKET FOR CASE #: 2:23-cv-00457-JMS-MJD

BENNETT v. BALL  
Assigned to: Judge Jane Magnus-Stinson  
Referred to: Magistrate Judge Mark J. Dinsmore

Cause: 42:1983 Prisoner Civil Rights

Date Filed: 09/20/2023  
Jury Demand: Both  
Nature of Suit: 555 Prisoner Petitions -  
Prison Condition  
Jurisdiction: Federal Question

### Plaintiff

**KEVIN BENNETT**

represented by **KEVIN BENNETT**  
Booking # 24014  
MARION COUNTY JAIL  
Permanent ID # 693239  
MARION COUNTY JAIL  
ADC Mail Room  
695 Justice Way  
Indianapolis, IN 46203  
PRO SE

V.

### Defendant

**SAMANTHA BALL**  
*Nurse*

represented by **Brian M. Pierce**  
Brian M. Pierce, Attorney at Law  
P.O. Box 1411  
Muncie, IN 47308  
765-385-9506  
Fax: 765-416-6452  
Email: brian@brianpiercelaw.com  
*ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text
09/20/2023	<a href="#"><u>1</u></a>	COMPLAINT against SAMANTHA BALL, BARRETT, TYLER BORDEN, MICHAEL HICKS, DYLAN RUMER, filed by KEVIN BENNETT. (No fee paid with this filing) (Attachments: # <a href="#"><u>1</u></a> Envelope)(CCG) (Entered: 09/21/2023)
09/20/2023	<a href="#"><u>2</u></a>	MOTION for Leave to Proceed in forma pauperis, filed by Plaintiff KEVIN BENNETT. (Attachments: # <a href="#"><u>1</u></a> Exhibit, # <a href="#"><u>2</u></a> Envelope)(CCG) (Entered: 09/21/2023)
09/21/2023	<a href="#"><u>3</u></a>	MAGISTRATE JUDGE's NOTICE of Availability to Exercise Jurisdiction issued. (CCG) (Entered: 09/21/2023)

09/21/2023	<a href="#">4</a>	Notice to File Rule 7.1 Disclosure Statement. (RAGS) (CCG) (Entered: 09/21/2023)
09/22/2023	<a href="#">5</a>	ORDER granting <a href="#">2</a> Motion for Leave to Proceed in forma pauperis - No initial partial filing fee is due at this time. SEE ORDER. Copy sent to Plaintiff via US Mail. Signed by Judge Jane Magnus-Stinson on 9/22/2023. (JRB) (Entered: 09/22/2023)
09/26/2023	<a href="#">6</a>	NOTICE to Pro se Litigant - The following information is provided to pro se litigants to inform them about rules and procedures governing how they communicate with the Court. Copy to plaintiff by U.S. Mail. (MEH) (Entered: 09/26/2023)
11/30/2023	<a href="#">7</a>	Correspondence REQUESTING COPY of Case Docket Sheet, filed by KEVIN BENNETT. Copy/Copies provided via US Mail. (Attachments: # <a href="#">1</a> Public Docket Sheet, # <a href="#">2</a> Envelope) (TPS) (Entered: 12/01/2023)
12/11/2023	<a href="#">8</a>	Order Screening Complaint, Identifying Misjoined Claims, and Directing Further Proceedings - The Medical Care Claims, as defined above, shall proceed in this action. The Rumor Claims, the Hicks Claims, and the August 27 Claims are misjoined. Mr. Bennett shall have through January 5, 2024, in which to notify the Court whether he wishes the Court to sever any of the misjoined claims into new actions, as set forth in Section IV, above. If Mr. Bennett believes that additional claims were alleged in the complaint, but not identified by the Court, he shall have through January 5, 2024, to identify those claims. The clerk is directed to add Sergeant Noah Miller as a defendant on the docket. The clerk is also directed to update the docket to reflect that the proper spelling of the last name of the defendant identified as "Dylan Rumer" is "Rumor." The clerk is directed to issue process to defendant Nurse Ball. Copies mailed per Distribution. Signed by Judge Jane Magnus-Stinson on 12/11/2023.(KAA) (Entered: 12/11/2023)
12/11/2023	<a href="#">9</a>	NOTICE of Lawsuit & Waiver Issued by Clerk upon: Samantha Ball. (KAA) (Entered: 12/11/2023)
12/21/2023	<a href="#">10</a>	MOTION to Take Notice with the Courts, filed by Plaintiff KEVIN BENNETT. (Attachments: # <a href="#">1</a> Envelope)(BRR) Modified on 12/27/2023 - Updated filed date (JSR). (Entered: 12/22/2023)
01/08/2024	<a href="#">11</a>	WAIVER OF SERVICE Returned Executed, filed by SAMANTHA BALL. SAMANTHA BALL waiver sent on 1/4/2024. (TPS) (Entered: 01/08/2024)
02/12/2024	<a href="#">12</a>	MOTION for Copies and Notice of Change of Address, filed by Plaintiff KEVIN BENNETT. Plaintiff now housed at Adult Detention Center, 675 Justice Way, Indianapolis, IN 46203. (Attachments: # <a href="#">1</a> Envelope)(LBT) (Entered: 02/13/2024)
02/27/2024	<a href="#">13</a>	ORDER GRANTING MOTION TO SEVER - Plaintiff has filed a motion asking to sever the misjoined claims into new actions. For the reasons stated in the Screening Order, that motion, dkt. <a href="#">10</a> , is granted. The clerk is directed to open three new civil actions in the Terre Haute Division consistent with the following: (See Order.) The clerk is directed to terminate Dylan Rumor, Michael Hicks, Tyler Borden, Officer Barrett, and Noah Miller as defendants on the docket. (See Order.) Signed by Judge Jane Magnus-Stinson on 2/27/2024. Copy to Plaintiff via US mail. (JSR) (Entered: 02/28/2024)
03/04/2024	<a href="#">14</a>	ORDER DIRECTING CLERK TO REISSUE PROCESS TO DEFENDANT - The Court issued a Notice of Lawsuit and Request to Waive Service of a Summons to Defendant. Dkt. <a href="#">9</a> . As of the writing of this Order, Defendant has not waived service or otherwise appeared. Accordingly, the clerk is directed pursuant to Fed. R. Civ. P. 4(c)(3) to issue process to Defendant in the manner specified by Rule 4(d). Process shall consist

		of the complaint, dkt. <a href="#">1</a> ; applicable forms (Notice of Lawsuit and Request for Waiver of Service of Summons and Waiver of Service of Summons); the Screening Order, dkt. <a href="#">8</a> ; and this Order. Copies provided per distribution list. Signed by Judge Jane Magnus-Stinson on 03/04/2024.(AAS) (Entered: 03/04/2024)
03/04/2024	<a href="#">15</a>	NOTICE of Lawsuit & Waiver Issued by Clerk to Samantha Ball. (AAS) (Entered: 03/04/2024)
03/11/2024	<a href="#">17</a>	ORDER GRANTING MOTION FOR COPIES - <a href="#">12</a> Motion for Status Update is GRANTED to the extent that the Clerk is directed to enclose copies of the following with Plaintiff's copy of this Order: (1) public docket sheet; (2) complaint, dkt. <a href="#">1</a> . Signed by Magistrate Judge Mark J. Dinsmore on 3/11/2024 (Copy mailed to Plaintiff). (Attachments: # <a href="#">1</a> Public Docket Sheet, # <a href="#">2</a> Dkt. 1 - Complaint) (LBT) (Entered: 03/12/2024)
03/12/2024	<a href="#">16</a>	Mail Returned as undeliverable - need gallery #. <a href="#">13</a> Order on Motion sent to KEVIN BENNETT. (KAA) (Entered: 03/12/2024)
03/15/2024	<a href="#">18</a>	WAIVER OF SERVICE Returned Executed, filed by SAMANTHA BALL. SAMANTHA BALL waiver sent on 3/4/2024. (Attachments: # <a href="#">1</a> Envelope)(AAS) (Entered: 03/15/2024)
03/18/2024	<a href="#">19</a>	NOTICE of Appearance by Brian M. Pierce on behalf of Defendant SAMANTHA BALL. (Pierce, Brian) (Entered: 03/18/2024)
03/18/2024	<a href="#">20</a>	WAIVER OF SERVICE Returned Executed, filed by SAMANTHA BALL. SAMANTHA BALL waiver sent on 3/11/2024. (Pierce, Brian) (Entered: 03/18/2024)
03/18/2024	<a href="#">21</a>	Mail Returned as undeliverable - Need Galley # Also. <a href="#">14</a> Order sent to KEVIN BENNETT at Marion County Jail, 695 Justice Way, Indianapolis, IN 46203. (AAS) (Entered: 03/18/2024)
03/18/2024	<a href="#">22</a>	MOTION to the Court and NOTICE of Change of Address, filed by Plaintiff KEVIN BENNETT. (Attachments: # <a href="#">1</a> Envelope)(LBT) Modified on 3/20/2024 - Updated date filed (JSR). (Entered: 03/19/2024)
03/18/2024	<a href="#">23</a>	AFFIDAVIT by KEVIN BENNETT. (Attachments: # <a href="#">1</a> Envelope)(LBT) (Entered: 03/19/2024)
04/09/2024	<a href="#">24</a>	Mail Returned as undeliverable. <a href="#">17</a> Order on Motion sent to KEVIN BENNETT at Marion County Jail. (LF) (Entered: 04/10/2024)
05/01/2024	<a href="#">25</a>	Correspondence REQUESTING COPY of Case Docket Sheet, filed by Kevin Bennett. Copy/Copies provided via US Mail. (Attachments: # <a href="#">1</a> Envelope, # <a href="#">2</a> Public Docket sheet) (LF) (Entered: 05/03/2024)
05/07/2024	<a href="#">26</a>	ANSWER to <a href="#">1</a> Complaint , filed by SAMANTHA BALL.(Pierce, Brian) (Entered: 05/07/2024)
05/13/2024	<a href="#">27</a>	ORDER SETTING PRETRIAL SCHEDULE AND DISCUSSING DISCOVERY IN PRISONER LITIGATION - This Order sets the schedule for how this action shall proceed. Part I sets forth the pretrial deadlines. Part II discusses various aspects of discovery. Facilitating the discovery process can be difficult, and this Order is issued in an effort to help explain and streamline the process for the parties. The parties should carefully read this Order. *SEE ORDER FOR ADDITIONAL INFORMATION*. Dispositive Motions due by 1/10/2025. Discovery due by 12/13/2024. Copy to Plaintiff via US mail. (See Order.) Signed by Magistrate Judge Mark J. Dinsmore on 05/13/2024.

		(AJG) Updated docket text. Modified on 5/13/2024 (AJG). (Entered: 05/13/2024)
06/26/2024	<a href="#">28</a>	Notice of Filing of Plaintiff's First Set of Interrogatories, filed by Plaintiff KEVIN BENNETT. (Attachments: # <a href="#">1</a> Exhibit, # <a href="#">2</a> Envelope) (BAA) (Entered: 06/28/2024)
07/19/2024	<a href="#">29</a>	ORDER - Plaintiff's motion for Court assistance, dkt. [ <a href="#">22</a> ], is GRANTED to the extent that the Clerk is directed to enclose copies of the following with Plaintiff's copy of this Order: (1) public docket sheet; and (2) complaint, dkt. <a href="#">1</a> . The Court also acknowledges that it has updated Plaintiff's address on the docket. Copy of Order, Public Docket Sheet and Complaint mailed to Plaintiff via US Mail. Signed by Magistrate Judge Mark J. Dinsmore on 7/19/2024. (SWM) (Entered: 07/19/2024)
07/24/2024	<a href="#">30</a>	MOTION to Compel Discovery, filed by Plaintiff KEVIN BENNETT. (Attachments: # <a href="#">1</a> Envelope)(JRB) (Entered: 07/25/2024)
07/25/2024	<a href="#">31</a>	RESPONSE in Opposition re <a href="#">30</a> MOTION to Compel , filed by Defendant SAMANTHA BALL. (Pierce, Brian) (Entered: 07/25/2024)
08/12/2024	<a href="#">32</a>	Reply to Response to Motion to compel, filed by Plaintiff KEVIN BENNETT. (Attachments: # <a href="#">1</a> Cover Letter, # <a href="#">2</a> Envelope) (LF) (Entered: 08/13/2024)
09/30/2024	<a href="#">33</a>	Second Motion to Compel Discovery, filed by Plaintiff KEVIN BENNETT. (Attachments: # <a href="#">1</a> Envelope) (BAA) (Entered: 10/01/2024)
10/09/2024	<a href="#">35</a>	ORDER - In this case, Plaintiff alleges that Defendant--who was a nurse at the Knox County Jail while he was incarcerated there--refused to give him a breathing treatment. Dkt. <a href="#">8</a> . Pending before the Court are two motions to compel filed by Plaintiff. Dkts. <a href="#">30</a> , <a href="#">33</a> . Plaintiff's first motion to compel, dkt. <a href="#">30</a> , is DENIED as stated in Section I. His second motion to compel, dkt. <a href="#">33</a> , is DENIED WITHOUT PREJUDICE as stated in Section II. The Clerk is directed to enclose two endorsed but otherwise blank document subpoenas with Plaintiff's copy of this Order. Signed by Magistrate Judge Mark J. Dinsmore on 10/9/2024. Copy mailed to Plaintiff. (Attachments: # <a href="#">1</a> Proposed Summons) (See Order.) (BAA) (Entered: 10/15/2024)
10/15/2024	<a href="#">34</a>	RESPONSE in Opposition re <a href="#">33</a> MOTION to Compel , filed by Defendant SAMANTHA BALL. (Attachments: # <a href="#">1</a> Exhibit Ex 1)(Pierce, Brian) (Entered: 10/15/2024)
10/21/2024	<a href="#">36</a>	Correspondence REQUESTING COPY of Case Docket Sheet, filed by KEVIN BENNETT. Copy/Copies provided via US Mail. (Attachments: # <a href="#">1</a> Public Docket Sheet, # <a href="#">2</a> Envelope) (TPS) (Entered: 10/23/2024)
11/04/2024	<a href="#">37</a>	NOTICE of Service Of Second Set of Request for Interrogatories, filed by Plaintiff KEVIN BENNETT (Attachments: # <a href="#">1</a> Exhibit, # <a href="#">2</a> Envelope) (AJG) (Entered: 11/04/2024)
11/15/2024	<a href="#">38</a>	MOTION to Take Notice, filed by Plaintiff KEVIN BENNETT. (Attachments: # <a href="#">1</a> Subpoena, # <a href="#">2</a> Envelope)(AAS) (Entered: 11/18/2024)
12/09/2024	<a href="#">39</a>	Correspondence REQUESTING COPY of Case Docket Sheet, filed by Kevin Bennett. Copy/Copies provided via US Mail. (Attachments: # <a href="#">1</a> Public Docket Sheet) (AAS) (Entered: 12/10/2024)
01/15/2025	<a href="#">40</a>	MOTION for Court Assistance to Take Notice, filed by Plaintiff KEVIN BENNETT. (Attachments: # <a href="#">1</a> Exhibit)(AAS) (Entered: 01/16/2025)

01/15/2025	<a href="#">41</a>	Correspondence REQUESTING COPY of Case Docket Sheet, filed by KEVIN BENNETT. Copy/Copies provided via US Mail. (Attachments: # <a href="#">1</a> Public Docket Sheet) (TPS) (Entered: 01/16/2025)
01/20/2025	<a href="#">42</a>	RESPONSE re <a href="#">40</a> MOTION for Court Assistance , filed by Defendant SAMANTHA BALL. (Attachments: # <a href="#">1</a> Exhibit Ex 1)(Pierce, Brian) (Entered: 01/20/2025)
01/29/2025	<a href="#">43</a>	MOTION to Extend Deadlines, filed by Plaintiff KEVIN BENNETT. (JSR) (Entered: 01/29/2025)
02/12/2025	<a href="#">44</a>	ORDER - Plaintiff has filed a Motion to Take Notice, <a href="#">38</a> , in which he asks the Court to effect service of a non-party subpoena because he is unable to utilize certified mail at the facility in which he is incarcerated. That motion is GRANTED. The Clerk is directed to serve the subpoena found at Docket Number 38-1 via certified mail. The Clerk is further directed to change the date of production to March 7, 2025, and shall note on the subpoena that Plaintiff's Permanent ID Number is 693239. Plaintiff has filed a Motion to Take Notice, <a href="#">40</a> , in which he moves to compel Defendant Ball to respond to Plaintiff's second set of interrogatories. In response, Defendant Ball reports that her failure to respond to the interrogatories was inadvertent and that those responses have now been served. Accordingly, Plaintiff's motion is DENIED AS MOOT. Plaintiff has filed a Motion for Extension of Time, [Dkt. 43], in which he seeks an extension of the dispositive motions deadline in this case. That motion is DENIED. The deadline to file a motion for summary judgment was January 10, 2025. [Dkt. 27 at 4.] At this point, extending the dispositive motions deadline would only serve to delay the resolution of this case. Defendant has not filed a motion for summary judgment, so the case is now ready for trial. The Clerk is directed to send Plaintiff a copy of the Court's Motion for Assistance with Recruiting Counsel Form along with this Order. If Plaintiff wishes to ask the Court to recruit counsel to represent him in the trial of this case, he shall complete and file that form by March 4, 2025. SEE ORDER. Copy sent to distribution list via US Mail. Signed by Magistrate Judge Mark J. Dinsmore on 2/12/2025. (JRB) (Entered: 02/13/2025)
02/28/2025	<a href="#">46</a>	MOTION for Assistance with Recruiting Counsel, filed by Plaintiff KEVIN BENNETT. (JRB) (Entered: 02/28/2025)
03/05/2025	<a href="#">47</a>	Correspondence REQUESTING COPY of Case Docket Sheet, filed by Kevin Bennett. Copy/Copies provided via US Mail. (CKM) (Entered: 03/05/2025)
05/01/2025	<a href="#">48</a>	ORDER - <a href="#">46</a> Motion to Appoint Counsel is GRANTED. The Court will attempt to recruit counsel to represent Mr. Bennett and he will be notified when this step has been taken. Signed by Magistrate Judge Mark J. Dinsmore on 5/1/2025 (Copy mailed to Plaintiff). (LBT) (Entered: 05/02/2025)

**Case #: 2:23-cv-00457-JMS-MJD**