

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

PEDRO CANDELARIA,)	
)	
Plaintiff,)	
)	
v.)	No. 1:23-cv-01355-JRS-KMB
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Order Screening Amended Complaint and Directing Further Proceedings

Plaintiff Pedro Candelaria asserts claims for damages against the United States under the Federal Tort Claims Act ("FTCA") and under the theory recognized in *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 399 (1971), based on injuries he suffered as a prisoner at the United States Penitentiary – Terre Haute ("USP Terre Haute"). Because Mr. Candelaria is a "prisoner," this Court must screen the amended complaint before service on the United States.¹ 28 U.S.C. § 1915A(a), (c).

I. Screening Standard

When screening a complaint, the Court must dismiss any portion that is frivolous or malicious, fails to state a claim for relief, or seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915A(b). To determine whether the complaint states a claim, the Court applies the same standard as when addressing a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). *See Schillinger v. Kiley*, 954 F.3d 990, 993 (7th Cir. 2020). Under that standard, a complaint must include "enough facts to state a claim to relief that is

¹ Mr. Candelaria's original complaint was filed on July 31, 2023. Dkt. 1. The matter was closed when he failed to pay the filing fee, but the Court subsequently granted Mr. Candelaria's motion to reconsider and reopened the case. The amended complaint at docket 10 is now the operative complaint.

plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). "A claim has facial plausibility 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. 662, 678 (2009). The Court construes *pro se* complaints liberally and holds them to a "less stringent standard than pleadings drafted by lawyers." *Cesal v. Moats*, 851 F.3d 714, 720 (7th Cir. 2017).

II. Amended Complaint

Mr. Candelaria's factual allegations are accepted as true at the pleading stage. *See Lisby v. Henderson*, 74 F.4th 470, 472 (7th Cir. 2023). The amended complaint names thirteen defendants: (1) the United States of America; (2) FCC Terre Haute Complex Warden S. Kallis; (3) FCC Terre Haute Captain Goodwin; (4) Correctional Officer Sinai; (5) CO FNU LNU; (6) FNU Jackson; (7) Lt. FNU Young; (8) SIS Lt. FNU Edwards; (9) Associate Warden J. Johnston; (10) Unit Manager Ashley French; (11) Psychologist FNU Carmichael; (12) Health Services Administrator FNU Bowman; and (13) Health Services Clinical Director W. Wilson. Dkt. 10 at 2.

In his amended complaint, Mr. Candelaria alleges that in July of 2022, a non-party inmate "Reyes" brutally assaulted him when they were both housed in Unit F2 at USP – Terre Haute. *Id.* at 3. The week prior, inmate Reyes screamed threats, insinuated violence, and intimidated other inmates housed on the unit. *Id.* The defendants did nothing. *Id.* On July 22, 2022, Reyes stabbed Mr. Candelaria four times with a large, metal knife. *Id.* at 4. Both correctional officers on the unit were aware of the confrontation but did not investigate or intervene. *Id.* Specifically, Officer Sinai "turned his back" and ignored the assault. *Id.*

All the while, the facility was having a recreation move which allowed inmate Reyes to enter and exit the building with a weapon. *Id.* Inmate Reyes disposed of the weapon. *Id.* Despite

the incident, neither of the officers conducted an observation round to ensure the safety and security of the unit.

Once Inmate Reyes was off the unit, Mr. Candelaria approached the correctional officers, and Officer Sinai asked Mr. Candelaria if he was okay. *Id.* Mr. Candelaria showed his wounds to the officers, and each wound was pouring blood. *Id.* One of the officers called a medical emergency but did not initiate a distress call that would have prompted other staff to respond. *Id.* Mr. Candelaria spent four days in the local hospital from July 22 to July 25. *Id.* Mr. Candelaria continues to experience physical and psychological effects. *Id.*

Mr. Candelaria filed a grievance regarding the incident and requested that video be preserved. *Id.* at 5. The grievance office acknowledged receipt, but did not respond. *Id.* Mr. Candelaria filed several electronic requests to staff, many of which went unanswered. *Id.* at 5-6.

Mr. Candelaria sent an electronic request to staff indicating that he was having an irregular heartbeat, felt dizzy, had cold sweats, was spitting blood, felt fatigued, and had chest pains. *Id.* at 6. Mr. Candelaria filed a tort claim. *Id.*

Mr. Candelaria seeks compensatory, nominal and punitive damages as well as declaratory judgment. *Id.* at 8.

III. Discussion of Claims

Applying the screening standard to the factual allegations in the amended complaint, certain claims are dismissed while other claims shall proceed as submitted.

As an initial matter, Mr. Candelaria's claims against individual defendants Warden S. Kallis; Captain Goodwin; Correctional Officer Sinai; CO FNU LNU; FNU Jackson; Lt. FNU Young; SIS Lt. FNU Edwards; Associate Warden J. Johnston; Unit Manager Ashley French; Psychologist FNU Carmichael; Health Services Administrator FNU Bowman; and Health Services

Clinical Director W. Wilson are **dismissed**.

Mr. Candelaria seeks money damages from the individual defendants which means he is pursuing claims under the theory recognized in *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 399 (1971). In that case, the United States Supreme Court allowed private claims for damages against federal officials in their individual capacities for violating the Fourth Amendment. The Court later extended the *Bivens* theory to a federal prisoner's claims for deliberate indifference to a serious medical need, *see Carlson v. Green*, 446 U.S. 15 (1980); and a congressional employee's due process claim of gender discrimination, *see Davis v. Passman*, 442 U.S. 228 (1979).

Over the last four decades, however, the Court has steadfastly refused to extend *Bivens* to any other cause of action. *See Egbert v. Boule*, 596 U.S. 482, 490–92 (2022) (collecting cases). Recognizing a new *Bivens* action is now "a disfavored judicial activity" and when asked to recognize a *Bivens* action, the Court's "watchword is caution." *Id.* at 491.

When asked to recognize a new *Bivens* action, courts engage in a two- step inquiry: first, does the case involve a new *Bivens* context, which is to say, is it "meaningfully different from" *Bivens*, *Carlson*, and *Davis*; and second, are there "special factors" indicating that the Judiciary is at least arguably less equipped than Congress to "weigh the cost and benefits of allowing a damages action to proceed." *Id.*

As presented, the Court broadly interprets Mr. Candelaria's amended complaint to allege claims of deliberate indifference and failure to intervene. But Mr. Candelaria's amended complaint makes no specific allegations against any of the named defendants. "For constitutional violations under § 1983 or *Bivens*, a government official is only liable for his or her own misconduct." *Locke v. Haessig*, 788 F.3d 662, 669 (7th Cir. 2015) (cleaned up). Mr. Candelaria does list out each defendant, alleging that they are responsible for constitutional deprivations. However, Plaintiff sets forth no factual allegations of misconduct on behalf of any of these defendants. Accordingly,

any *Bivens* claim against each individual defendant, with the exception of Officer Sinai, must be **dismissed** for lack of personal involvement.

Mr. Candelaria does reference that Officer Sinai asked him if he was okay after the stabbing incident. Dkt. 10 at 4. Mr. Candelaria's amended complaint indicates that two of the officers called a medical emergency but did not initiate a request that prompted other staff to respond. *Id.* Based on these allegations, Mr. Candelaria alleges no misconduct on behalf of Officer Sinai, and any *Bivens* claim against him is likewise **dismissed**.

Mr. Candelaria also seeks to sue the United States under the Federal Tort Claims Act ("FTCA"). Under the FTCA, the United States is liable for money damages for personal injury caused by the negligent or wrongful act or omission of any employee of the United States while acting within the scope of his or her employment "under circumstances, where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred." 28 U.S.C. § 1346(b)(1). Mr. Candelaria's FTCA claims for battery, negligence, and intentional infliction of emotional distress against the United States which stem from the assault by inmate Reyes, and the failure to intervene and failure to seek medical attention by the correctional officers **shall proceed**.

In summary, the FTCA claims shall proceed, and all other claims have been dismissed. If Mr. Candelaria believes that additional claims were alleged in the amended complaint, but not identified by the Court, he shall have **through June 28, 2025**, in which to identify those claims.

Because this case proceeds against the United States only, **the clerk is directed to** terminate all other defendants on the docket.

IV. Service of Process

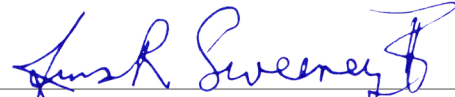
The **clerk is directed** to issue a single summons to the United States attorney for this district and the Attorney General of the United States at Washington, D.C., pursuant to Fed. R. Civ. P. 4(i)(1). The Marshal for this District or his Deputy shall serve the summons, together with a copy of the amended complaint and a copy of this Order, on the defendants at the expense of the United States.

The Marshal for this District is directed to **serve** the summons and amended complaint to the U.S. Attorney and Attorney General of the United States by **registered or certified mail** at the expense of the United States.

Nothing in this Order prohibits the filing of a proper motion pursuant to Rule 12 of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

Date: 6/2/2025



JAMES R. SWEENEY II, JUDGE
United States District Court
Southern District of Indiana

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