

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

CHARLES CROSS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:24-cv-01423-SEB-CSW
	)	
JASON WYSONG, et al.,	)	
	)	
Defendants.	)	

**Order Screening Complaint and Directing Further Proceedings**

Plaintiff Charles Cross is a prisoner currently incarcerated at the Indiana State Prison. He filed this case in Wayne County Court alleging that his rights were violated when he was housed at the Wayne County Jail. The defendants removed the case to this Court because Mr. Cross raises federal claims. Because Mr. Cross is a "prisoner," this Court must screen the complaint before service on the defendants. 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 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 formal pleadings drafted by lawyers." *Cesal v. Moats*, 851 F.3d 714, 720 (7th Cir. 2017).

## **II. The Complaint**

Mr. Cross sues Captain Jason Wysong, Officer Florence, and Sergeant Ilef. His factual allegations, summarized below, are accepted as true at the pleading stage. *See Lisby v. Henderson*, 74 F.4th 470, 472 (7th Cir. 2023).

In March of 2023, Mr. Cross was moved to a segregation cell at the Jail with no water. Staff later took his mattress when he became disruptive in an attempt to get some water. It was also cold in his cell, and he had no bedding to keep warm. He asked Sergeant Ilef for bedding but was ignored. Mr. Cross then threatened to hang himself and took his jumpsuit off, tied it around his neck, and attempted to do so. Officer Florence and Sergeant Ilef tackled Mr. Cross to the floor, even though Mr. Cross had stated that he was submitting. They cuffed him and left him naked in the cold cell. That evening, Mr. Cross had a smock to wear, but was still cold. He told staff that if he was not moved, he would attempt to harm himself again. Officer Florence ignored Mr. Cross's complaints and Mr. Cross did attempt to harm himself again by jumping off of a five-foot wall. Mr. Cross was then placed on suicide watch.

In June of 2023, Mr. Cross was supposed to be removed from disciplinary segregation, but he was placed instead in administrative segregation. Captain Wysong placed him there to continue to punish him.

While in segregation, Mr. Cross further was denied physical copies of mail from his family and friends and instead was allowed only to view it on the kiosk. He was not permitted any books at all.

Captain Wysong was aware of the conditions in which Mr. Cross was housed, including the mail policy, and the denial of books, and allowed them to continue. Captain Wysong also denied Mr. Cross's access to the courts by restricting his law library time and his ability to make copies of filings in this case. Captain Wysong further denied Mr. Cross appeal forms and necessary materials to mail filings. All of this prejudiced Mr. Cross in his criminal case and appeal.

Mr. Cross seeks monetary damages.

### **III. Discussion of Claims**

Applying the screening standard to the factual allegations in the following claims shall proceed:

First, Mr. Cross's claim that his complaints of suicidal ideation were ignored shall proceed against Officer Florence and Sergeant Ilef. In addition, Mr. Cross's excessive force claims shall proceed against these defendants. The claim that Mr. Cross was left in a cold cell with insufficient clothing and bedding shall proceed against Officer Florence, Sergeant Ilef, and Captain Wysong. If Mr. Cross was a pretrial detainee at the time of these events, these claims will proceed under the Fourteenth Amendment. If he was a convicted inmate, the claims will proceed under the deliberate indifference standard of the Eighth Amendment.

Mr. Cross's claim that he was denied physical copies of his mail and books shall proceed against Captain Wysong under the First Amendment. The claim that Captain Wysong kept Mr. Cross in segregation to punish him shall proceed under the Fourteenth Amendment to the extent that Mr. Cross was a pretrial detainee at the time.<sup>1</sup> And Mr. Cross's access-to-the-courts claim shall proceed against Captain Wysong.

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<sup>1</sup> If Mr. Cross was a pretrial detainee, he is entitled to due process protections before being placed in segregation, but a convicted prisoner lacks a liberty interest in avoiding segregation unless segregation amounts an "atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life." *Johnson v. Murray*, 2024 WL 20152 at \*1 (7th Cir. 2024). Mr. Cross has not alleged sufficient length

This summary of claims includes all of the viable claims identified by the Court. All other claims have been dismissed. If the plaintiff believes that additional claims were alleged in the complaint, but not identified by the Court, he shall have **through December 19, 2024**, in which to file a motion to reconsider the screening order.

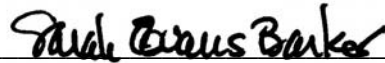
#### **IV. Conclusion**

The defendants have already appeared. They shall have **twenty-one days** to answer the complaint.

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: 12/6/2024



SARAH EVANS BARKER, JUDGE  
United States District Court  
Southern District of Indiana

Distribution:

CHARLES CROSS  
109081  
INDIANA STATE PRISON  
INDIANA STATE PRISON  
Inmate Mail/Parcels  
One Park Row  
MICHIGAN CITY, IN 46360

Kenneth Jude Kleppel  
Kightlinger & Gray, LLP  
kkleppel@k-glaw.com

Andrew J. Upchurch  
Kightlinger & Gray, LLP  
aupchurch@k-glaw.com

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or conditions of segregation he spent because of Captain Wysong's actions to implicate the due process clause if he was a convicted inmate.