

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION

SONNY DAVIS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 2:23-cv-00030-JRS-MJD
	)	
ASHBA, et al.,	)	
	)	
Defendants.	)	

**Order Screening Amended Complaint and Directing Further Proceedings**

Plaintiff Sonny Davis, who is incarcerated in the Indiana Department of Correction, brought this action based on allegations of excessive force, unconstitutional conditions of confinement, and retaliation at Wabash Valley Correctional Facility. The Court granted Mr. Davis leave to file an amended complaint, dkt. 38, which the Court now screens.

**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 a 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 Amended Complaint**

Mr. Davis names 10 defendants in the amended complaint: (1) Sergeant Jordan Ashba; (2) Commissioner Robert Carter, Jr.; (3) Warden Frank Vanihel; (4) Captain Kuldip Wadhawan; (5) Officer Caleb Wainman; (6) Officer Colton Stevenson; (7) Officer Jason Jobe; (8) Officer Mark Shepard; (9) Mental Health Professional Sarah Clarke; and (10) Centurion Health, LLC.

The factual allegations in the amended complaint are as follows:

1. Sarah Clarke allegedly removed Mr. Davis from suicide watch and returned him to his cell, where he was later found with a shirt tied around his neck. After Mr. Davis was returned to suicide watch, Ms. Clarke was determined to make him suffer by having his clothing exchanged for a suicide smock and ordering the removal of his mattress from 7:00 a.m. every morning until 9:00 p.m. every night. In addition, Ms. Clarke allegedly took these actions to retaliate against Mr. Davis because he filed a complaint against her in 2019.
2. Sergeant Ashba was responsible for taking Mr. Davis's suicide blanket on at least two occasions. He allegedly assaulted Mr. Davis with the OC fogger "for absolutely no reason" on two occasions. Dkt. 1 at p. 7-8. 4.
3. Captain Wadhawan authorized Sergeant Ashba's use of force on Mr. Davis on at least one occasion.
4. Officers Shepard, Wainman, Jobe, and Stevenson allegedly failed to intervene when Mr. Davis was denied a mattress and blanket despite the cold temperatures and when he was hit with chemical spray. In addition, Officers Shepard and Wainman fabricated conduct reports to justify the use of OC spray. The conduct reports were dismissed because the video evidence contradicted them.
5. Centurion allegedly has a policy of 1) torturing individuals having a mental health crisis by forcing them to sleep on the floor and freeze without a mattress and blanket and 2) denying suicide watch to those that inform staff they are suicidal.
6. Warden Vanihel, Commissioner Carter, and the Indiana Department of Correction have a policy of permitting staff to assault inmates who pose no threat. Mr. Davis has experienced multiple such assaults, and he has notified these defendants of the issue, but they have taken no corrective action.

7. Warden Vanihel knew that Mr. Davis's cell was uninhabitable due to freezing temperatures and bug infestations.

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

The following claims **SHALL PROCEED**:

Eighth Amendment Conditions of Confinement Claim: Defendants Warden Vanihel, Sarah Clarke, Sergeant Ashba, Officer Shepard, Officer Wainman, Officer Jobe, and Officer Stevenson subjected Mr. Davis to unconstitutional conditions of confinement including the denial of a mattress or blanket despite cold temperatures.

Eighth Amendment Excessive Force Claim: Sergeant Ashba and Captain Wadhawan subjected Mr. Davis to excessive force. In addition, Officer Shepard and Officer Wainman failed to intervene and fabricated conduct reports to justify the use of OC spray. Commissioner Carter and Warden Vanihel either endorsed or were deliberately indifferent to a widespread practice of correctional officers using chemical agents against incarcerated individuals for minor infractions.

First Amendment Retaliation Claim: Sarah Clarke allegedly retaliated against Mr. Davis for filing a complaint against her by removing him from suicide watch and subjecting him to the unconstitutional conditions listed above.

Eighth Amendment Policy Claim: Centurion allegedly has a policy of forcing individuals to sleep on the floor and freeze without a mattress or blanket when they are suffering from a mental health crisis and denying suicide watch to those that inform staff that they are suicidal.

This summary of claims includes all of the viable claims identified by the Court. All other claims have been dismissed.

### **IV. Further Proceedings**

The **clerk is directed to add** Commissioner Robert Carter, Jr., and Warden Frank Vanihel as defendants on the docket.

The **clerk is directed** pursuant to *Fed. R. Civ. P.* 4(c)(3) to issue process to Commissioner Carter and Warden Vanihel in the manner specified by Rule 4(d). Process shall consist of the amended complaint, dkt. [27], applicable forms (Notice of Lawsuit and Request for Waiver of Service of Summons and Waiver of Service of Summons), and this Order. Service shall be completed electronically.

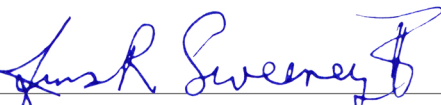
The existing Defendants shall have **14 days** following entry of this Order on the docket to answer or otherwise respond to the amended complaint.

The **clerk is directed** to update the remaining Defendants' names on the docket as follows:

Jordan Ashba  
Kuldip Wadhawan  
Caleb Wainman  
Colton Stevenson<sup>1</sup>  
Jason Jobe  
Mark Shepard  
Sarah Clarke  
Centurion Health, LLC

**IT IS SO ORDERED.**

Date: 01/30/2024

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

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<sup>1</sup> Officer Stevenson was identified as "Stevens" in the original complaint.

Distribution:

All ECF-registered counsel of record via email

SONNY DAVIS

128888

WESTVILLE - CF

WESTVILLE CORRECTIONAL FACILITY

Inmate Mail/Parcels

5501 South 1100 West

WESTVILLE, IN 46391

Electronic Service to IDOC employees

Warden Frank Vanihel

Commissioner Robert Carter, Jr.