

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

NATHAN HOOPER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:21-cv-01637-SEB-TAB
	)	
JAYMISON TYLER BENNETT,	)	
BRANDON ISON,	)	
	)	
Defendants.	)	

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

Plaintiff Nathan Hooper is a prisoner currently incarcerated at New Castle Correctional Facility ("New Castle"). He was previously incarcerated at Wabash Valley Correctional Facility ("Wabash Valley"). Mr. Hooper filed this action alleging two former Wabash Valley Officers violated his civil rights. Because the plaintiff is a "prisoner," this Court has an obligation to screen the amended 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 amended 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. Hooper has sued two defendants: Jaymison Bennett and Brandon Ison. The amended complaint makes the following allegations.

Mr. Hooper was housed in the suicide unit at Wabash Valley. Officer Ison handcuffed him and slammed his face against the wall and threw him to the ground. Mr. Hooper injured his face, arms, hands, and body. Officer Bennett then began punching Mr. Hooper in the side of his face for no reason. Mr. Hooper seeks compensatory and punitive damages.

## III. Discussion of Claims

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

Mr. Hooper has failed to state a claim under the Fourth Amendment. Because he was incarcerated at the time of the events in his amended complaint, his claims are more properly characterized under the Eighth Amendment. *Kinney v. Indiana Youth Center*, 950 F.2d 462, 465 (7th Cir. 1991) ("The eighth amendment applies to excessive force claims arising after conviction, and protects against the unnecessary and wanton infliction of pain.") (internal quotations and citations omitted). These claims are **dismissed**.

The claims which shall proceed are the following. Mr. Hooper has stated an Eighth Amendment excessive force claim against both defendants. *Lewis v. Downey*, 581 F.3d 467, 475 (7th Cir. 2009) ("The unnecessary and wanton infliction of pain on a prisoner violates his rights under the Eighth Amendment."). Mr. Hooper has stated a failure to intervene claim against both

defendants. *Harper v. Albert*, 400 F.3d 1052, 1064 (7th Cir. 2005) ("[O]fficers who have a realistic opportunity to step forward and prevent a fellow officer from violating a plaintiff's right through the use of excessive force but fail to do so may be held liable.") (internal quotations and citations omitted). Finally, Mr. Hooper has stated a claim under Indiana law for assault, battery, and intentional infliction of emotional distress. *Raess v. Doescher*, 883 N.E.2d 790, 794 (Ind. 2008) (elements for the tort of assault); *Donovan v. Hoosier Park, LLC*, 84 N.E.3d 1198, 1210 (Ind. Ct. App. 2017) (elements for the tort of battery); *State v. Alvarez by next friend Alvarez*, 150 N.E.3d 206, 218 (Ind. Ct. App. 2020) (elements for the tort of intentional infliction of emotional distress). These claims shall **proceed**.

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 **January 6, 2023**, in which to identify those claims. Nothing in this Order prohibits the filing of a proper motion pursuant to Rule 12 of the Federal Rules of Civil Procedure.

#### **IV. Service of Process**

The **clerk is directed** to issue and serve process pursuant to Federal Rule of Civil Procedure 4(c)(3) to defendants Jaymison Tyler Bennett and Brandon Ison. Process shall consist of a summons.

The Marshal for this District or his Deputy shall serve the summons, together with a copy of the amended complaint, filed on June 10, 2022, (dkt. 33), and a copy of this Order, on the defendants, at the expense of the United States. Service may be made by certified mail to the Defendants' residential addresses. See Ind. R. Trial Procedure 4.1(A)(1); Fed. R. Civ. P. 4(e)(1).

The residential addresses of each defendant are as follows:

Jaymison Bennett  
1663 E. CR 200 N  
Sullivan, IN 47882

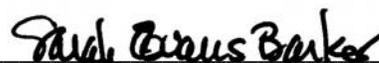
Brandon Ison  
512 Osborn Ln.  
Bloomfield, IN 47424

The **clerk is directed** to update the docket with each Defendant's address.<sup>1</sup> The **clerk is also directed** to update Mr. Hooper's address:

Nathan Hooper  
195330  
NEW CASTLE – CF  
NEW CASTLE CORRECTIONAL FACILITY – Inmate Mail/Parcels  
1000 Van Nuys Road  
New Castle, IN 47362

**SO ORDERED.**

Date: 12/12/2022



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

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<sup>1</sup> The Court issued an Order explaining that Defendants' addresses had been previously restricted and would become disclosed to the public unless an alternative address was provided. Dkt. 32. Neither Defendant responded.

## Distribution:

Nathan Hooper

195330

NEW CASTLE – CF

NEW CASTLE CORRECTIONAL FACILITY – Inmate Mail/Parcels

1000 Van Nuys Road

New Castle, IN 47362

Jaymison Bennett

1663 E. CR 200 N

Sullivan, IN 47882

Brandon Ison

512 Osborn Ln.

Bloomfield, IN 47424

U.S. Marshals Service

179 Birch Bayh Federal Building & U.S. Courthouse

46 E. Ohio Street

Indianapolis, IN 46204