

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

SHAWN JOHNSON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:23-cv-00443-MPB-KMB
	)	
GEO GROUP INC.,	)	
MARK SEVIER,	)	
LUNDSFORD,	)	
SMITH,	)	
BROWN,	)	
DUNLAP,	)	
CENTURION HEALTH,	)	
	)	
Defendants.	)	

**Order Granting Leave to Amend, Screening Amended Complaint,  
and Directing Further Proceedings**

Plaintiff Shawn Johnson is a prisoner currently incarcerated at New Castle Correctional Facility ("New Castle"). He filed this civil action under 42 U.S.C. § 1983 alleging that his constitutional rights were violated when New Castle correctional staff failed to protect him from an assault by another inmate and medical staff failed to adequately treat his injuries. *See* dkt. 11 (Screening Order). At screening, the Court found that he had stated Eighth Amendment failure-to-protect claims against Defendants Sergeant Smith, Officer Dunlap, and Officer Brown, as well as claims against Defendants GEO Group, Inc. ("GEO"), and Centurion Health ("Centurion") based on the theory set forth in *Monell v. Department of Social Services*, 436 U.S. 658 (1978). He has now filed an amended complaint. Dkt. 27. His implied motion for leave to amend is **granted**. Because Mr. Johnson 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 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**

The Court set forth the allegations of Mr. Johnson's original complaint in detail in the Order screening that complaint. Dkt. 11. The allegations of the amended complaint are largely the same as the allegations in the original complaint, except that Mr. Johnson has omitted allegations related to the claims that were dismissed when the Court screened his original complaint. Accordingly, the Court does not restate the allegations of the amended complaint in detail:

On June 24, 2022, another inmate threatened to assault or kill Mr. Johnson when he got a chance. Defendants Sergeant Smith and Officer Brown heard these threats. The next day, Mr. Johnson was let out of his cell to pass out food trays to other inmates. Defendant Officer Dunlap, who was working in the central booth control station, gave an order to workers to pass out the food

trays door-to-door without an officer in the pod (instead of through the cells' food slots with an officer present, which is the usual practice). Mr. Johnson expressed concern to Officer Dunlap because the other inmate had threatened to assault or kill him the day before. Officer Dunlap said that she had spoken to the other inmate, and he had promised not to hurt Mr. Johnson. Mr. Johnson expressed his reluctance again, at which point Officer Dunlap gave him a direct order to pass out the trays. If an inmate refuses to obey a direct order from staff, he is subject to a Class A conduct report, which is the most serious class of infraction.

When Officer Dunlap opened the other inmate's cell door, the other inmate attacked Mr. Johnson. Sergeant Smith and Officer Brown stood outside the unit door and watched Mr. Johnson being assaulted for several minutes before intervening.

After the attack, Mr. Johnson was taken to the nurse's station. He reported that he had been struck countless times all over his body and had severe pain in his mouth. The nurse did not physically examine him or schedule him to see a dentist. About two days later, Mr. Johnson saw a dentist, who extracted a tooth knocked loose during the attack. The dentist promised to call Mr. Johnson back for extractions of two more teeth and to prescribe pain medication. Mr. Johnson didn't get the pain medication, and several weeks passed without him being scheduled to have his other teeth extracted. The additional teeth were not extracted until more than a month after his first dentist appointment and then only after he filed a grievance. During that time, he suffered significant pain. Mr. Johnson has never received any care for his other injuries, including injuries to his neck, back, and shoulder, as well as hearing loss in his left ear and blurry vision in his left eye.

In addition to the Eighth Amendment and *Monell* claims allowed to proceed after screening of his original complaint, in his amended complaint, Mr. Johnson has added negligence claims

against Defendants Dunlap, Smith, and Brown and a First Amendment *Monell* claim against GEO based on allegations that GEO has a policy or practice of punishing inmates who speak up about potential safety problems.

### III. Discussion of Claims

Mr. Johnson's claims against Defendants Dunlap, Smith, and Brown **shall proceed** as Eighth Amendment failure-to-protect claims based on allegations that Officer Dunlap opened the other inmate's cell door even though she knew the other inmate had threatened to assault or kill Mr. Johnson and that Sergeant Smith and Officer Brown waited several minutes before intervening to stop the other inmate's attack on Mr. Brown. They also **shall proceed** as common law negligence claims against these defendants based on the same factual allegations.

For the reasons stated in the original Screening Order, Mr. Johnson's *Monell* claim against Centurion **shall proceed** based on allegations that Centurion policies or practices caused him not to receive adequate medical care for his injuries following the attack.

For the reasons stated in the original Screening Order, Mr. Johnson's *Monell* claim against GEO **shall proceed** based on allegations that GEO has a policy or practice of disregarding safety measures, which led to the other inmate attacking him. A *Monell* claim based on allegations that a GEO policy or practice effectively chills inmate speech by subjecting them to punishment for voicing safety concerns also **shall proceed**.

This summary of claims includes all of the viable claims identified by the Court. All other claims have been dismissed. If Mr. Johnson believes that additional claims were alleged in the amended complaint, but not identified by the Court, he shall have **through March 6, 2024**, in which to identify those claims.

The **clerk is directed** to terminate Mark Sevier as a defendant on the docket.

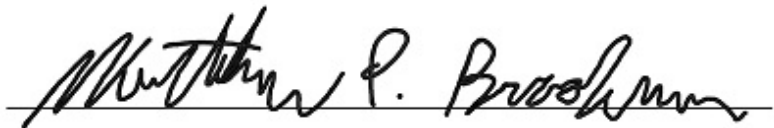
#### IV. Conclusion

Mr. Johnson's implied motion for leave to amend is **granted**. All the defendants have already appeared and answered the original complaint. They shall answer or otherwise respond to the amended complaint within the time set forth in Federal Rule of Civil Procedure 15(a)(3).

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.**

Dated: February 7, 2024

A handwritten signature in black ink, reading "Matthew P. Brookman", written over a horizontal line.

Matthew P. Brookman, Judge  
United States District Court  
Southern District of Indiana

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