

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

TYSON KEPLINGER,)	
)	
Plaintiff,)	
)	
v.)	No. 2:19-cv-00410-JRS-MJD
)	
KAYLA MCDONALD,)	
KIM HOBSON,)	
RICHARD BROWN,)	
)	
Defendants.)	

Entry Screening Complaint and Directing Further Proceedings
I.
Screening Standard

The plaintiff is a prisoner currently incarcerated at Wabash Valley Correctional Facility (“Wabash Valley”). Because the plaintiff is a “prisoner” as defined by 28 U.S.C. § 1915A(c), this Court has an obligation under 28 U.S.C. § 1915A(a) to screen his complaint before service on the defendants. Pursuant to § 1915A(b), the Court must dismiss the complaint if it is frivolous or malicious, fails to state a claim for relief, or seeks monetary relief against a defendant who is immune from such relief. In determining 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 Cesal v. Moats*, 851 F.3d 714, 720 (7th Cir. 2017). To survive dismissal,

[the] complaint must contain sufficient factual matter, accepted as true, to state a claim for relief that is plausible on its face. 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). Pro se complaints such as that filed by the plaintiff are construed liberally and held to a less stringent standard than formal pleadings drafted by lawyers. *Perez v. Fenoglio*, 792 F.3d 768, 776 (7th Cir. 2015).

II. The Complaint

The complaint names three defendants: 1) Nurse Kayla McDonald, 2) Health Care Administrator Kim Hobson, and 3) Warden Richard Brown. The plaintiff alleges that he suffers from a rare form of diabetes which is difficult to manage and that his blood sugar level does not respond well to glucose tablets. On May 20, 2019, Nurse McDonald tested the plaintiff's blood glucose in the "medroom." The glucometer produced a reading of 45 mg/dl. The plaintiff told Nurse McDonald that his blood sugar felt even lower than the reading. Nurse McDonald gave the plaintiff two glucose tablets. He told her that they did not really work on him. She ignored this and instructed correctional officers to return the plaintiff to his cell in segregation without retesting his blood glucose level to ensure that it had risen to a safe level.

The plaintiff's cell had no medical call button and his cell door was solid, making it difficult for facility staff to monitor his condition. After being returned to his cell, he lost consciousness for an unknown amount of time until facility staff discovered him and called for first responders.

Nurse McDonald again interfered with appropriate medical treatment for the plaintiff when she suggested they wait until getting the plaintiff to the infirmary to administer emergency Glucagon. The first responder ignored Nurse McDonald's suggestion and immediately administered Glucagon. When the plaintiff arrived at the infirmary, medical staff noted that he was semi-conscious and experiencing gross tremors, labored breathing, and other symptoms. He received additional Glucagon and other medical treatments.

After recovering from the incident, he filed a grievance. Defendant Hobson denied the grievance after failing to properly investigate. He then appealed to Warden Brown. In her comments on the grievance appeal, Nurse McDonald lied and said that the plaintiff had told her

he would be fine after receiving the two glucose tablets. Warden Brown denied the grievance appeal.

The plaintiff does not have access to commissary in segregation so he cannot keep food in his cell to manage his diabetes. Nurse McDonald has also given the plaintiff the wrong dose of insulin in the past. The possibility of her providing inadequate or inappropriate medical treatment again in the future, which could lead to the plaintiff's death, causes him anxiety.

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.

All claims against Kim Hobson and Richard Brown are **dismissed** for failure to state a claim. The plaintiff does not allege that either Ms. Hobson or Mr. Brown were involved in the medical emergency he experienced on May 20, 2019. Instead, they responded to his grievances after the medical emergency had passed. Such allegations do not state a constitutional claim. "Individual liability under § 1983... requires personal involvement in the alleged constitutional deprivation." *Colbert v. City of Chicago*, 851 F.3d 649, 657 (7th Cir. 2017) (internal quotation omitted) (citing *Wolf-Lillie v. Sonquist*, 699 F.2d 864, 869 (7th Cir. 1983) ("Section 1983 creates a cause of action based on personal liability and predicated upon fault. An individual cannot be held liable in a § 1983 action unless he caused or participated in an alleged constitutional deprivation.... A causal connection, or an affirmative link, between the misconduct complained of and the official sued is necessary.")).

The plaintiff's Eighth Amendment deliberate indifference claim against Kayla McDonald **shall proceed**. This is the only viable claim identified by the Court. All other claims have been dismissed. If the plaintiff believes that additional claims were alleged in the complaint, but not

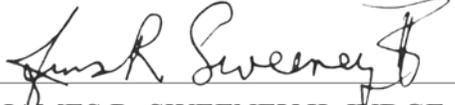
identified by the Court, he shall have **through December 2, 2019**, in which to identify those claims.

**IV.
Service of Process**

The **clerk is directed** pursuant to Fed. R. Civ. P. 4(c)(3) to issue process to defendant Kayla McDonald in the manner specified by Fed. R. Civ. P. 4(d). Process shall consist of the complaint (docket 1), applicable forms (Notice of Lawsuit and Request for Waiver of Service of Summons and Waiver of Service of Summons), and this Order. Because all claims against them have been dismissed, the **clerk is directed** to terminate Kim Hobson and Richard Brown as defendants on the docket. The **clerk is directed** to send a courtesy copy of the service documents to Douglass R. Bitner.

IT IS SO ORDERED.

Date: 11/3/2019



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

Distribution:

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Courtesy copy to:

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