

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

AUSTIN LEE MONTEIRO,)
Plaintiff,)
v.)
JASON CARTER, et al.,)
Defendants.)
No. 1:23-cv-01752-MPB-KMB

Order Screening Second Amended Complaint and Directing Further Proceedings

Plaintiff Austin Monteiro is a prisoner currently incarcerated at New Castle Correctional Facility. He alleges in this lawsuit that he was denied medical care for his cystic kidney disease and pain. Because the plaintiff is a "prisoner," this Court screened his original and first amended complaints before service on the defendants. 28 U.S.C. § 1915A(a), (c). Mr. Monteiro has filed a second amended complaint, which is also subject to screening.

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 Second Amended Complaint

The allegations and defendants in the second amended complaint largely mirror those of the first amended complaint. Like in the first amended complaint, Mr. Montiero sues Drs. Jason Carter and Stephanie Riley. He alleges that he suffers from polycystic kidney disease and that a specialist has recommended medication for this condition, but that Drs. Carter and Riley will not prescribe it. They have also denied his request for pain medication. The second amended complaint adds Centurion Health Services as a defendant and alleges that Centurion's research department determined that he would not benefit from the kidney medication, despite the medication being the only treatment for polycystic kidney disease. Dr. Carter also told Mr. Montiero that the real reason Centurion did not approve the medication was because of the cost.

III. Discussion of Claims

Applying the screening standard set forth above, Mr. Monteiro's claims that Drs. Carter and Riley denied him medication will continue to proceed as claims that these defendants were deliberately indifferent to his serious medical needs in violation of his Eighth Amendment rights.

In addition, his claim that Centurion denied his kidney medication because of the cost shall proceed as an Eighth Amendment claim under the theory recognized in *Monell v. Dep't. of Social Services*, 436 U.S. 658, 694–95 (1978).

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

The **clerk is directed** to add Centurion Health of Indiana as a defendant on the docket.

IV. Service of Process

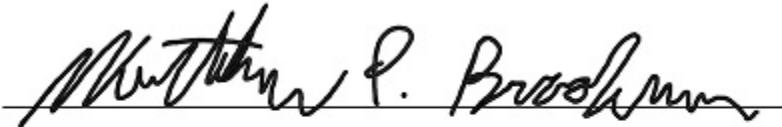
Drs. Carter and Riley have already appeared and answered the amended complaint. They shall have 21 days to answer the second amended complaint. The **clerk is directed** pursuant to *Fed. R. Civ. P. 4(c)(3)* to issue process to Centurion in the manner specified by Rule 4(d). Process shall consist of the second amended complaint, dkt [37], applicable forms (Notice of Lawsuit and Request for Waiver of Service of Summons and Waiver of Service of Summons), and this Order.

A copy of this Order and the process documents shall also be served on Centurion electronically.

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: November 15, 2024



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

Distribution:

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All Electronically Registered Counsel

Electronic Service to Centurion