

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

JOSHUA ALLEN MEDCALF,)	
)	
Plaintiff,)	
)	
v.)	No. 2:23-cv-00299-JMS-MG
)	
R. BREWER,)	
)	
Defendant.)	

Order Screening Complaint and Directing Further Proceedings

Plaintiff Joshua Allen Medcalf is a prisoner currently incarcerated at Westville Correctional Facility. He filed this civil action alleging that Defendant Sergeant R. Brewer exhibited excessive force against him when he was housed at Wabash Valley Correctional Facility ("WVCF"). Because the plaintiff is a "prisoner," this Court has an obligation to screen the 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 Complaint

The complaint names one defendant: Sergeant R. Brewer. Mr. Medcalf alleges that on February 14, 2023, Sgt. Brewer cursed at him and accused him of stabbing an officer. Dkt. 5 at 2. Sgt. Brewer then threw him on his back and kneed him in the face. *Id.*

III. Discussion of Claims

Applying the screening standard to the factual allegations in the complaint, Mr. Medcalf's claim of excessive force shall **proceed** as alleged against Sgt. Brewer.

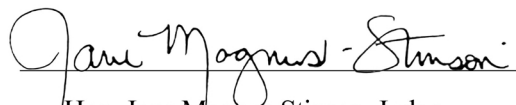
This summary of claims includes all of the viable claims identified by the Court. All other claims have been dismissed. If the plaintiff believes that additional claims were alleged in the complaint, but not identified by the Court, he shall have **through November 21, 2023**, in which to identify those claims.

IV. Service of Process

The **clerk is directed** pursuant to *Fed. R. Civ. P.* 4(c)(3) to issue process to defendant Sergeant R. Brewer in the manner specified by Rule 4(d). Process shall consist of the amended complaint, dkt. [5], applicable forms (Notice of Lawsuit and Request for Waiver of Service of Summons and Waiver of Service of Summons), and this Order. The **clerk is directed** to serve the Indiana Department of Correction employee 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.

Date: 11/1/2023


Hon. Jane Magnus-Stinson, Judge
United States District Court
Southern District of Indiana

Distribution:

JOSHUA ALLEN MEDCALF

166991

Westville Correctional Control Unit

Electronic Service Participant – Court Only

Electronic service to Indiana Department of Correction:

Sergeant R. Brewer – Wabash Valley Correctional Facility