UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

VINCENT PEGAN,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 4:24-cv-00096-TWP-KMB
	)	
FLOYD COUNTY JAIL,	)	
	)	
Defendant.	)	

ORDER LIFTING STAY ON PROCEEDINGS, SCREENING AMENDED COMPLAINT, AND RULING ON PENDING MOTIONS

Plaintiff Vincent Pegan filed this civil rights lawsuit on July 10, 2024. Dkt. 1. On November 4, 2024, the Court issued a screening order dismissing Mr. Pegan's claims. Dkt. 12. On November 18, 2024, Mr. Pegan filed an amended complaint. Dkt. 17. Since then, Mr. Pegan has also filed two motions for preliminary injunction, dkt. [21], dkt. [32], as well as a motion for court assistance for clarification regarding address, dkt. [34]. Importantly, upon taking notice that Mr. Pegan was declared incompetent to stand trial in his state criminal proceedings, this Court stayed all proceedings in this case pending restoration of his competency on March 4, 2025. Dkt. 29. After addressing Mr. Pegan's competency, the Court addresses each motion as well as his amended complaint.

I. Competency and Stay of Proceedings

Federal Rule of Civil Procedure 17(c) provides that "[t]he court must appoint guardian ad litem—or issue another appropriate order—to protect a minor or incompetent person who is unrepresented in an action." In the Seventh Circuit, when there is verifiable evidence of incompetency, district courts must assess whether a litigant is competent before adjudicating other aspects of the lawsuit. *See Yoder v. Patla*, 2000 WL 1225476, *2 (7th Cir. 2000) (motion claiming

that an Illinois county had declared the plaintiff legally disabled "should have apprised the district court of [his condition]" to begin competency proceedings and deferring on issue of venue until threshold issue of competence is decided) (citing *T.W. and M.S. by Enk v. Brophy*, 124 F.3d 893, 898 (7th Cir. 1997)). Furthermore, under Rule 17(c), mental competency is determined by reference to the law of the party's domiciliary state. *Yoder*, 2000 WL 1225476, at *3.

Thus, upon taking notice that the Floyd County Superior Court found that Mr. Pegan was incompetent to stand trial on November 19, 2024, this Court stayed Mr. Pegan's civil proceedings pending treatment and restoration of his competency on March 4, 2025. Dkt. 29 at 1; *see also* Indiana Cause Nos. 22D01-2403-F5-492; 22D01-2312-F5-2066; 22D01-2312-CM2008; 22D01-2310-F5-01843, case summaries available at mycase.in.gov. Pursuant to Indiana Code § 35-36-3-1, Mr. Pegan was committed to the Indiana Division of Mental Health and Addiction ("DMHA") and transported to Logansport State Hospital for restoration of competency. *Id.* Pursuant to § 35-36-3-2, on March 24, 2025, the DMHA issued Mr. Pegan a competency certification and he was transferred back to Floyd County Jail the next day. *See State v. Pegan*, 22D01-2403-F5-000492. Proceedings in all of his state criminal cases have commenced again.[1] See docket entries on April 1, 2025, in Indiana Cause Nos. 22D01-2403-F5-492; 22D01-2312-F5-2066; 22D01-2312-CM2008; 22D01-2310-F5-01843.

After analyzing Mr. Pegan's competency under Rule 17(c) and the applicable Indiana law, the Court now finds that he is competent to proceed in this case. The fact that he has undergone in-patient restoration services at Logansport, that DMHA has certified his competency, and that his criminal proceedings have resumed provides a solid basis to lift the stay and allow his civil

[1] Indiana Code § 35-36-3-2 provides that when a defendant attains the ability to understand the proceedings and assist in the preparation of the defendant's defense, the DMHA shall certify that fact to the proper court, which will order the return of the defendant and issue a court order declaring the defendant competent to stand trial.

rights cases to proceed in this court. Further, Mr. Pegan's filings since he has returned to the Floyd County Jail are cogent and coherent. Thus, the Court now **lifts the stay** issued in its March 4, 2025, Order, dkt. [29].

II. Amended Complaint

Mr. Pegan is currently incarcerated at Floyd County Jail ("FCJ"). After this Court initially dismissed his complaint for failure to state a claim, he filed an amended complaint on November 18, 2024. Dkt. 17. The amended complaint alleges that, beginning on November 20, 2023, he was put in segregation and given nutraloaf. *Id.* at 2. Many times, the nutraloaf was old and cold. *Id.* Also, there were bugs in it at least 3 times. *Id.* As a result, Mr. Pegan lost 70 pounds, going from 210 pounds to 140 pounds. *Id.* He complained to Sheriff Steve Bush at least 16 times about his concerns, and he also told Captain Gene Perrot and Sgt. Roy that nutraloaf is illegal. *Id.* at 2. Nevertheless, Sheriff Bush never responded, and Captain Perrot and Officer Roy told him that they are allowed to give it to him. *Id.* When Mr. Pegan said that feeding inmates nutraloaf was a form of corporal punishment, Sgt. Roy said he did not care. *Id.* As he continued to complain to the officers about the food, they told him to "put it in a lawsuit." *Id.* Mr. Pegan seeks injunctive and monetary relief. *Id.* at 3.

Because the plaintiff is a "prisoner," this Court must screen the amended complaint before serving the defendants and 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(a)–(c). 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 pleadings drafted by lawyers." *Cesal v. Moats*, 851 F.3d 714, 720 (7th Cir. 2017).

Applying the screening standard to the facts alleged in the complaint, the Court allows the claims against Defendants Sheriff Steve Bush, Captain Gene Perrot, and Sgt. Chris Roy to proceed. Giving an incarcerated person a diet of nutraloaf can violate the Eighth Amendment's prohibition on cruel and unusual punishment depending on the circumstances. *See Prude v. Clarke*, 675 F.3d 732, 734 (7th Cir. 2012) (explaining that "not all nutraloaf is unhealthful" but reversing summary judgment where defendants failed to comply with discovery demands concerning the recipe for the nutraloaf and there was evidence that it caused vomiting). Moreover, "[d]eliberate withholding of nutritious food or substitution of tainted or otherwise sickening food, with the effect of causing substantial weight loss, vomiting, stomach pains, . . . or other severe hardship, would violate the Eighth Amendment." *Id.* at 735.

Furthermore, as a pre-trial detainee, Mr. Pegan's claims are subject to a Fourteenth Amendment analysis for objective unreasonableness as opposed to an Eighth Amendment analysis of subjective deliberate indifference. *See Kemp v. Fulton Cnty.*, 27 F.4th 491, 495 (7th Cir. 2022) (claiming that a pre-trial detainee's conditions-of-confinement claim arise "under the Due Process Clause of the Fourteenth Amendment, which is governed by an objective standard" while "those who are serving prison sentences after a trial must rely on the Eighth Amendment's bar on cruel and unusual punishment, which requires a showing of both an objectively unreasonable deprivation of rights and subjective deliberate indifference"). Thus, a plaintiff challenging the

conditions of his pretrial detention only has to show that defendants were "objectively unreasonable" in subjecting Mr. Pegan to a substantial risk of suffering great harm. *Id.* (quoting *Hardeman v. Curran*, 933 F.3d 816, 824 (7th Cir. 2019)).

Here, at the pleading stage, Mr. Pegan has sufficiently alleged that he was subjected to sufficiently serious conditions that created an excessive risk to his health and safety—nutraloaf with bugs in it, rotten nutraloaf, rapid weight loss, etc., and that the defendants acted unreasonably by continuing to feed him food that lacked adequate nutrition. Mr. Pegan's Fourteenth Amendment claims **shall proceed** against Defendants Sheriff Steve Bush, Captain Gene Perrot, and Sgt. Chris Roy. These are the only viable claims identified by the Court. All other claims have been dismissed. If Mr. Pegan believes that additional claims were alleged in the complaint, but not identified by the Court, he shall have **through May 23, 2025,** in which to identify those claims.

III. Motions for Preliminary Injunction

On December 19, 2024, while undergoing treatment at Logansport to restore his competency, Mr. Pegan filed a motion for preliminary injunction, asking the court to enjoin Floyd County Jail from giving him nutraloaf with bugs in it. Dkt. 21 at 1. On April 17, 2025, Mr. Pegan filed a second motion for preliminary injunction, stating that Floyd County Jail stopped giving all inmates nutraloaf on December 16, 2024. Dkt. 32. Instead, he asks the Court to ensure that Floyd County Jail give him enough calories since he is only being fed 1,300 calories even though he requires 2,500 calories. *Id.*

First, the Court **denies** Mr. Pegan's December 19, 2024, motion for preliminary injunction, dkt. [21] as **moot**. For one, this motion was filed when Mr. Pegan was at Logansport undergoing treatment to restore his competency and not at Floyd County Jail. Thus, Mr. Pegan was not receiving the nutraloaf when he filed the petition. Moreover, he has since stated that Floyd County

Jail has stopped feeding inmates nutraloaf. *See* dkt. 32. Absent facts showing that the specific Defendants in this case will feed him nutraloaf again, his motion must be denied as moot. *See Jackson v. Clements*, 796 F.3d 841, 843 (7th Cir. 2015). *Brown v. Bartholomew Consol. Sch. Corp.*, 442 F.3d 588, 596 (7th Cir. 2006) (stating that a case seeking injunctive relief becomes moot "once the threat of the act sought to be enjoined dissipates"). Last, the Court cannot grant an injunction against Floyd County Jail because it is not a defendant in the case. *See Maddox v. Wexford Health Sources, Inc.*, 528 F. App'x 669, 672 (7th Cir. 2013) ("An injunction, like any 'enforcement action,' may be entered only against a litigant, that is, a party that has been served and is under the jurisdiction of the district court") (quoting *Lake Shore Asset Mgmt., Ltd. v. Commodity Futures Trading Comm'n*, 511 F.3d 762, 767 (7th Cir. 2007)).

Second, the Court **denies without prejudice** Mr. Pegan's second motion for preliminary injunction, dkt. [32], because it also asks the Court to order Floyd County Jail to feed him an adequate diet. As mentioned above, the Court does not have authority to grant an injunction against a non-defendant. Nevertheless, Mr. Pegan can re-file any motions for preliminary injunction now that he is back at Floyd County Jail and the stay of proceedings has been lifted.

IV. Other Pending Motions

Mr. Pegan's motion for court assistance with respect to his address at docket [34], is **granted** to the extent that the Court confirms that Mr. Pegan's address on the docket has been updated to reflect that he is at the Floyd County jail.

Finally, the Court observes that Mr. Pegan's voluminous and repetitious motions are a significant drain on the Court's ability to process and consider his cases and those of many others with pending cases before the Court. Some of the motions may be meritorious, and Mr. Pegan is entitled to litigate his claims earnestly and receive the same attention and thoroughness the Court

would afford any other party. But he is not entitled to monopolize the Court's resources by repeatedly filing the same materials or raising the same issues. "Every paper filed with the Clerk of this Court, no matter how repetitious or frivolous, requires some portion of the institution's limited resources. A part of the Court's responsibility is to see that these resources are allocated in a way that promotes the interests of justice." *In re McDonald*, 489 U.S. 180, 184 (1989); *see also United States ex rel. Verdone v. Circuit Court for Taylor County*, 73 F.3d 669, 671 (7th Cir. 1995) ("Frivolous, vexatious, and repeated filings by pro se litigants interfere with the orderly administration of justice by diverting scarce judicial resources from cases having merit and filed by litigants willing to follow court orders."). The Court will not sanction Mr. Pegan at this time for his voluminous filings, but he is hereby warned to be cautious in the future with his filings. "District judges have the inherent authority to impose sanctions—including dismissal—when a litigant engages in conduct that abuses the judicial process." *White v. Williams*, No. 10- 2400, 423 F. App'x 645, 646 (7th Cir. June 7, 2011).

V. Summary and Conclusion

Mr. Pegan has been restored to competency by the Indiana Division of Mental Health and Addiction, and his filings since he has been returned to the Floyd County Jail have been coherent. Accordingly, the Court finds that he is competent to litigate this action, and the Stay issued on March 4, 2025, dkt. [29], is hereby **lifted**.

Mr. Pegan's motion for court assistance with respect to his address at docket [34], is **granted.** Mr. Pegan's motions for preliminary injunction, dkt. [21], dkt. [32], are **denied without prejudice.**

Mr. Pegan's Fourteenth Amendment claim against Sheriff Steve Bush, Captain Gene Perrot, and Sgt. Chris Roy **will proceed** as pleaded in the amended complaint, dkt. [17]. All other claims

are **dismissed without prejudice**. The **clerk is directed** to add Sheriff Steve Bush, Captain Gene Perrot, and Sgt. Chris Roy as defendants on the docket and to terminate Floyd County Jail as a defendant on the docket.

The **clerk is directed** pursuant to Fed. R. Civ. P. 4(c)(3) to issue process to Defendants Sheriff Steve Bush, Captain Gene Perrot, and Sgt. Chris Roy in the manner specified by Rule 4(d). Process shall consist of the amended complaint filed on November 18, 2024, dkt. [17], applicable forms (Notice of Lawsuit and Request for Waiver of Service of Summons and Waiver of Service of Summons), and this Order.

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: 4/25/2025

Hon. Tanya Walton Pratt, Chief Judge
United States District Court
Southern District of Indiana

Distribution:

VINCENT PEGAN
121899
FLOYD COUNTY JAIL
FLOYD COUNTY JAIL
Inmate Mail/Parcels
P.O. Box 1406
New Albany, IN 47150

Sheriff Steve Bush
Floyd County Jail
311 Hauss Square
New Albany, IN 47150

Captain Gene Perrot
Floyd County Jail
311 Hauss Square
New Albany, IN 47150

Sgt. Chris Roy
Floyd County Jail
311 Hauss Square
New Albany, IN 47150