

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
NEW ALBANY DIVISION

VINCENT PEGAN,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 4:24-cv-00028-TWP-KMB
	)	
ROY, Dr.,	)	
CASEY, Nurse,	)	
FLOYD COUNTY JAIL,	)	
WOUTH, Sgt.,	)	
PARROT, Capt.,	)	
COGAN, C.O.,	)	
MAREIN, C.O.,	)	
BARRIEL, C.O.,	)	
WHITE, Capt.,	)	
MOSES, Lt.,	)	
S. MAYS, Lt.,	)	
ROY, Sgt.,	)	
BIRD, Sgt.,	)	
STEVE BASH, Sheriff,	)	
	)	
Defendants.	)	

**ORDER SCREENING COMPLAINT, DIRECTING SEVERANCE OF CLAIMS,  
AND DIRECTING FURTHER PROCEEDINGS**

This matter is before the Court on fourteen pending motions filed by Plaintiff Vincent Pegan ("Pegan"). This Order addresses the following Motions: Motion for Information About the Case (Dkt. 51), Motion for Court Assistance (Dkt. 52), Motion for Subpoena (Dkt. 53), Motion for Summary Judgment (Dkt. 54), Motion for Deadline (Dkt. 55), Motion for leave to proceed *in forma pauperis* (Dkt. 57), Motion for Order Addressing Pending Motions (Dkt. 58), Motion to Appoint Counsel (Dkt. 61), Motion Requesting Copies (Dkt. 62), Motion for Rule 65d (Dkt. 63), Motion for Discovery (Dkt. 65), Motion Addressing Pending Motions and Requesting Copies of Motions (Dkt. 66), Motion Requesting Status of Case (Dkt. 67), Motion Requesting Status of Case

(Dkt. 69), and Motion for Copy of the Public Docket (Dkt. 70). Pegan is currently incarcerated at the Floyd County Jail. He filed this civil action alleging violations of his constitutional rights. Because he 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. The Court will first screen the Complaint before addressing the numerous motions.

### **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**

Pegan sues the following defendants: Dr. Roy, Nurse Casey, the Floyd County Jail, Sgt. Wouth, Capt. Parrot, C.O. Cogan, C.O. Marein, C.O. Barriel, Capt. White, Lt. Moses, Lt. Mays, Sgt. Roy, C.O. Bird, and Sheriff Steve Bush. He alleges that Dr. Roy and Nurse Casey improperly cared for his back after he fell out of the top bunk in December 2023, resulting in a delay in

treatment and permanent injuries. (Dkt. 56). Separately, he alleges that Lt. Mays, Lt. Moses, Capt. Parrot, Sgt. Roy, and Sgt. Wouth required him to sleep on the floor from April 3 to April 28, 2024. He also alleges that C.O. Cogan and C.O. Marein had him sleep in his feces for two days with no shower sometime in January 2024. *Id.* Pagen also alleges that Sheriff Bush, C.O. Barriel, and Capt. White "all have done something threat[en]ing to [him]" during March 2024. *Id.* Finally, he claims that he has been served stale Nutraloaf from November 2023 to July 2024, and that when he complained to Sgt. Roy, he did nothing about it. *Id.*

### **III. DISCUSSION OF CLAIMS**

Applying the screening standard to the factual allegations in the Complaint, the claim that Dr. Roy and Nurse Casey failed to properly treat his back injury **shall proceed** as claims that these defendants exhibited deliberate indifference to his serious medical needs.

Any claims against the Floyd County Jail are **dismissed** because the Jail is not a suable entity. *See Smith v. Knox County Jail*, 666 F.3d 1037, 1040 (7th Cir. 2012) ("[T]he district court was correct that, in listing the Knox County Jail as the sole defendant, Smith named a non-suable entity.").

Pegan's claims against Sheriff Bush, C.O. Barriel, and Capt. White are **dismissed** for failure to state a claim upon which relief can be granted because he includes specific no factual allegations against them. Rather, he merely filed a motion with no text.

Pegan's claims against Sgt. Roy regarding Nutraloaf are **dismissed** as duplicative of the claims he alleges in *Pegan v. Floyd County Jail*, 4:24-cv-0096-TWP-KMB.

### **IV. SEVERANCE OF CLAIMS**

Pegan's other two discrete sets of claims – specifically (1) his claims against Lt. Mays, Lt. Moses, Capt. Parrot, Sgt. Roy, Sgt. Wouth for requiring him to sleep on the floor in April 2024,

and (2) his claims against C.O. Cogan, and C.O. Marein for requiring him to sleep in his feces for two days in January 2024 – are improperly joined to the claims identified above. In *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007), the Seventh Circuit explained that "[u]nrelated claims against different defendants belong in different suits." Rule 18 of the Federal Rules of Civil Procedure allows joinder of multiple parties only when the allegations against them involve the same conduct or transaction and common questions of fact and law as to all defendants. Rule 20(a) allows defendants to be joined in one action if a right to relief is asserted against them jointly with respect to the same transaction or occurrence, and a question of law or fact common to all defendants will arise in the action. When a claim includes improperly joined claims, "[t]he court may . . . add or drop a party. The court may also sever any claim against a party." Fed. R. Civ. P. 21.

Because Pegan's claims regarding the adequacy and cleanliness of his sleeping conditions are not properly joined to the claim proceeding in this case, those claims are severed from this case. If Pegan wishes to pursue his claims in separate lawsuits, he may do so. He shall have **through Friday, November 8, 2024**, by which to notify the Court of his intention to file the separate lawsuits and the Court will open the new lawsuits. Alternatively, Pegan may file the new lawsuits on his own. Pegan is reminded that each lawsuit will be subject to the filing fee and screening requirement of 28 U.S.C. § 1915A. If Pegan does not ask the Court to open the new lawsuit(s), those claims will be dismissed without prejudice.

#### **V. PENDING MOTIONS**

For the reasons set forth above, the Court rules on the pending motions as follows:

- Motion for Information About the Case, Dkt. [51], is **GRANTED** to the extent that this Order provides the requested information and resolves his pending motions.

- Motion for Court Assistance with service of the Complaint, Dkt. [52], is **GRANTED** in part as this Order screens Pagen's Complaint and issues service on Defendants Dr. Roy and Nurse Casey.
- Motion for Subpoena, Dkt. [53], is **DENIED** as the motion provides only a title and not text, and it is premature as the Court had not yet screened his Complaint or served any defendants at the time of the filing.
- Motion for Summary Judgment, Dkt. [54], is **DENIED** for two reasons. The Motion contains only a title and is not a proper motion pursuant to Rule 12 of the Federal Rules of Civil Procedure; and it is premature as the Court had not yet screened his Complaint or served any defendants at the time of the filing.
- Motion for Extension of Deadline, Dkt. [55], is **DENIED** as premature. The Court had not yet screened his Complaint or served any defendants at the time of the filing, so there is no deadline to extend.
- Motion for leave to proceed *in forma pauperis*, Dkt. [57], is **DENIED** as duplicative because Pegan has already been granted leave to proceed *in forma pauperis* (see Dkt. 20).
- Motion for Order Addressing Pending Motions, Dkt. [58], is **GRANTED** to the extent that this Order addresses and resolves his pending motions.
- Motion to Appoint Counsel, Dkt. [61], is **DENIED** for the same reasons set forth in the Court's Order at Dkt. 20 (Order Addressing Pending Motions and sending form motion for counsel).

- Motion Requesting Copies of all motions that have been filed, Dkt. [62], is **GRANTED** to the extent that this Order resolves his pending motions, and the clerk will send Pegan a copy of the public docket with his copy of this Order.
- Motion for Rule 65(d), Dkt. [63], is **DENIED** as the motion provides only a title and not text and it is premature as the Court had not yet screened his Complaint or served any defendants at the time of the filing.
- Motion for Discovery, Dkt. [65], is **DENIED** as premature as the motion provides only a title and no text and the Court had not yet screened the Complaint or served any defendants at the time of the filing.
- Motion Addressing Pending Motions and Requesting Copies of Motions, Dkt. [66], is **GRANTED** to the extent that this Order resolves his pending motions, and the clerk will send Pegan a copy of the public docket with his copy of this Order.
- Motions Requesting Status of Case, Dkt. [67] and Dkt. [69], are **GRANTED** to the extent that this Order provides the status of this case and resolves the pending motions.
- Motion for Copy of the Public Docket, [Dkt. 70], is **GRANTED** and the clerk is directed to include a copy of the public docket with Pagen's copy of this Order.

The Court instructs Pegan to stop filing motions that bear only a title and do not provide any basis for the Court to grant his requested action. Any future filings that bear only a title will be summarily denied.

## **VI. SERVICE OF PROCESS AND CONCLUSION**

The **Clerk is directed**, pursuant to Fed. R. Civ. P. 4(c)(3), to issue process to the defendants, Dr. Roy, and Nurse Casey, in the manner specified by Rule 4(d). Process shall consist

of the Complaint, (Dkt 1), 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 terminate** Lt. Moses, Lt. Mays, Capt. Parrot, Capt. White, Sgt. Roy, Sgt. Wouth, C.O. Cogan, C.O. Bird, C.O. Marein., Sheriff Steve Bush, C.O. Barriel, and the Floyd County Jail as defendants on the docket. The **Clerk is directed to include** a copy of the public docket with Pagen's copy of this Order.

Pagen shall have **through Friday, November 8, 2024**, by which to notify the Court of his intention to file the separate lawsuits and the Court will open the new lawsuits, or Pegan may file the new lawsuits on his own.

Nothing in this Order prohibits the Defendants from filing of a proper motion pursuant to Rule 12 of the Federal Rules of Civil Procedure.

**SO ORDERED.**

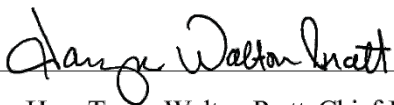
Date: 10/16/2024

**DISTRIBUTION:**

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Nurse Casey  
Medical Employee  
Floyd County Sheriff's Department  
311 Hauss Square  
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Hon. Tanya Walton Pratt, Chief Judge  
United States District Court  
Southern District of Indiana