

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

JAMES D. SULLIVAN,)
)
 Plaintiff,)
)
 v.) No. 2:24-cv-00141-JPH-MG
)
 UNITED STATES OF AMERICA,)
)
 Defendant.)

Order Screening Complaint and Directing Further Proceedings

Plaintiff James Sullivan is a prisoner currently incarcerated at the Elkton Federal Correctional Institution. He filed this civil action alleging officers at the Federal Correctional Institution (FCI) in Terre Haute, Indiana, negligently allowed him to be assaulted by fellow inmates. 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

Mr. Sullivan's factual allegations are accepted as true at the pleading stage. *See Lisby v. Henderson*, 74 F.4th 470, 472 (7th Cir. 2023). The complaint alleges that on April 1, 2022, while incarcerated at the FCI, Mr. Sullivan was threatened by another inmate. Mr. Sullivan then gave a note to Officer Lytle, addressed to the shift lieutenant, stating he was threatened and needed to be placed in protective custody. Mr. Sullivan also verbally told this to Officer Lytle, who responded that she would tell the lieutenant but likely nothing would happen because Mr. Sullivan was located in a safe housing unit. Mr. Sullivan did not receive a response and was not placed in protective custody.

On April 5, Mr. Sullivan was again threatened. He again wrote a note addressed to the lieutenant and this time gave it to Officer Thomas. Mr. Sullivan also told Officer Thomas that he needed to be placed in protective custody. Officer Thomas threw the note back at Mr. Sullivan and walked away, ignoring his request. Approximately four hours later, Mr. Sullivan was assaulted by several inmates who kicked him and rendered him unconscious.

When Mr. Sullivan regained consciousness, he walked to the door and waited for an officer to arrive. He was sent to the medical department to be evaluated and then the lieutenant's office, where officers were replaying the video of the assault. Mr. Sullivan was then placed in protective custody.

III. Discussion of Claims

Mr. Sullivan's claims under the Federal Tort Claims Act, 28 U.S.C. § 2671, *et seq.*, that officers at FCI negligently allowed him to be assaulted by fellow inmates **shall proceed** as submitted.

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 30, 2024**, in which to identify those claims.

IV. Service of Process

The **clerk is directed** to issue a single summons to the United States attorney for this district and the Attorney General of the United States at Washington, D.C., pursuant to Fed. R. Civ. P. 4(i)(1). The Marshal for this District is directed to serve the summons and complaint by registered or certified mail at the expense of the United States.

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

SO ORDERED.

Date: 11/5/2024

James Patrick Hanlon

James Patrick Hanlon
United States District Judge
Southern District of Indiana

Distribution:

JAMES D. SULLIVAN
63990-060
ELKTON - FCI
ELKTON FEDERAL CORRECTIONAL INSTITUTION
Inmate Mail/Parcels
P.O. BOX 10
LISBON, OH 44432

Electronic Notice to USM-C