



WILSON v. JOHN DOE GEORGE W. HILL CORRECTIONAL FACILITY - DELAWARE COUNTY PRISON

2019 | Cited 0 times | E.D. Pennsylvania | December 16, 2019

.)

STATES COURT EASTERN DISTRICT PENNSYLV A..1'JIA WILSON, Plaintiff,

SUPERINTENDENT

19-CV-5015

Plaintiff U.S.C.

Court Complaint

Complaint, October 2017. 2

"began chase" "tacticle pit-maneuver"

CAT

See Wilson, CP-23-CR-0004046-2018 (C.P. IN THE UNITED DISTR JCT FOR THE OF ERIC

v.

JOHN DOE GEORGE W. HILL CORRECTIONAL FACILITY - DELAWARE CO., et al.

Defendants.

CIVL ACTION NO.

MEMORANDUM Eric Wilson brings this prose civil action pursuant to 42 § 1983 against numerous individuals. 1

Wilson seeks leave to proceed in forma pauperis. For the following reasons, the will grant Wilson leave to proceed in forma pauper is and dismiss his

with leave to amend. I. FACTUAL ALLEGATIONS



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According to the Wilson was a passenger in a vehicle being driven by his sibling, Qawi Wilson, on 25, Wilson avers that his sibling traveling at high rates of speed as the police gave and a was used by the police (State Trooper Mcilvaine) to stop the fleeing vehicle. Wilson was thrown from the passenger seat into the passenger door of the vehicle and instantly incurred injuries to his right shoulder, neck, and back. Wilson was taken to Taylor Hospital and despite his notifying the police and hospital personnel of his injuries, no imaging studies (MRI or scan) were conducted.

1 When Wilson filed this matter, he was confined at the George W. Hill Correctional Facility awaiting trial. Currently, Wilson is incarcerated at SCI-Phoenix, having been convicted of certain offenses, including a conspiracy drug offense, on August 27, 2019. Commonwealth v. No. Del. Cty.). 2 The Court adopts the pagination assigned by the CM/ECF docketing system.

"are injuries."

State

States

"Delaware Personnel" "Superintendent

Chester." "[State Troopers" "deliberate

sibling." ..

Following his transfer to Delaware County prison, Wilson contends that he was in serious need of medical attention and was forced to file a grievance in order to receive medical care. Wilson avers a delay in medical attention, stating that he was examined and x-rayed on November 4, 2017, and prescribed medication on November 6, 2017. Wilson contends that the injuries he sustained severe in nature and he continues to suffer from such

In his Complaint, Wilson avers as follows:

Each of the Defendants, contained herein and enumerated within said complaint, has exercised a Deliberate Indifference to [his] safety/health and or mental health, instilled such callous disregard to and/or for the value of human life. Each of the Police Officers,

Troopers, Taylor Hospital Personnel, Delaware County Prison Personnel, have violated Policy/Protocol/procedure/Code of Ethics and/or Laws of the Commonwealth, in that they have engaged in unethical, impermissible, prejudicial conduct/misconduct in violation of [his] 8th and 14th Amendment Constitutional Rights of the United Constitution. The Insurance Company(s) - John Doe are liable for [his] injuries adjacent to the Insurance Policy (Holders). Wilson asserts claims



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for inadequate medical care against County Prison Medical and Taylor Hospital and asserts claims based on a supervisory liability theory against

John Doe of Delaware County Prison ... Secretary for the Department of Corrections for Delaware County ... [and] Mayor Thadeus Kirkland, employer of personnel/public servants and or officers of the City of Wilson asserts violations of the Eight and Fourteenth Amendments against each of the Defendant Police Officers and

for indifference to [his] health/safety to where they have breached their duty to protect as the defendants engaged in a high speed chase of [his] Wilson seeks money damages.

2

will leave

civil Accordingly, U.S.C.

complaint fails applicable Procedure

240 "sufficient face." U.S. (2009)

'.Y 2011).

DISCUSSION "To

United States,

law." U.S.

"A wrongs." 1207

element II. STANDARD OF REVIEW

The Court grant Wilson to proceed in forma pauperis because it appears that he is incapable of paying the fees to commence this action. 3

28 § 1915(e)(2)(B)(ii) applies, which requires the Court to dismiss the complaint if it fails to state a claim. Whether a to state a claim under § 1915(e)(2)(B)(ii) is governed by the same standard to motions to dismiss under Federal Rule of Civil 12(b)(6), see *Tourscher v. McCullough*, 184 F.3d 236, (3d Cir. 1999), which requires the Court to determine whether the complaint contains factual matter, accepted as true, to state a claim to relief that is plausible on its face. *Ashcroft v. Iqbal*, 556 U.S. 662, 678



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(quotations omitted). Conclusory allegations do not suffice. Id. As Wilson is proceeding prose, the Court construes his allegations liberally. Higgs v. Att Gen., 655 F.3d 333, 339 (3d Cir.

III.

state a claim under § 1983, a plaintiff must allege the violation of a right secured by the Constitution and laws of the and must show that the alleged deprivation was committed by a person acting under color of state West v. Atkins, 487 42, 48 (1988) . Wilson, however, has not alleged sufficient facts explaining what any of the individually named Defendants did or did not do to violate his rights.

defendant in a civil rights action must have personal involvement in the alleged See Rode v. Dellarciprete, 845 F.2d 1195, (3d Cir. 1988) (explaining that the personal involvement of each defendant in the alleged constitutional violation is a required

and a plaintiff must allege how each defendant was involved in the events and

3 However, as Wilson is a prisoner, he will be obligated to pay the filing fee in installments pursuant to § 191 S(b).

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"[b]ecause

Constitution." U.S. Supervisors

"two

first 307, Cir. 2014),

Ct. 2042 (2015). "with

harm." Cty. Cir. 2004) "Second,

plaintiffs

conduct."

Complaint

Non-State



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Co., occurrences giving rise to the claims). Indeed, vicarious liability is inapplicable to .. § 1983 suits, a plaintiff must plead that each Government-official defendant, through the official's own individual actions, has violated the Iqbal, 556 at 676.

A. Claims Against To the extent Wilson seeks to assert claims based on a supervisory liability theory against Defendants Superintendent John Doe and Mayor Kirkland, there are general ways in which a supervisor-defendant may be liable for unconstitutional acts undertaken by subordinates." Barkes v. Corr. Med, Inc., 766 F.3d 316 (3d reversed on other grounds by Taylor v. Barkes, 135 S. First, a supervisor may be liable if he or she deliberate indifference to the consequences, established and maintained a policy, practice or custom which directly caused [the] constitutional Id. (quoting A.M ex rel. J.MK v. Luzerne Juvenile Det. Ctr., 372 F.3d 572, 586 (3d (alteration in original))).

a supervisor may be personally liable under § 1983 if he or she participated in violating the rights, directed others to violate them, or, as the person in charge, had knowledge of and acquiesced in the subordinate's unconstitutional Id. Because Wilson does not explicitly allege how each defendant was involved in the alleged deprivation of his rights, his

must be dismissed. Because Wilson does not explicitly allege the basis for a supervisory liability claim against Superintendent John Doe and Mayor Kirkland, these claims are not plausible and will be dismissed.

B. Claims Against Actors The federal constitutional claims against Defendants John Doe at Insurance John Doe and/or Jane Doe at the Taylor Hospital Medical Department, and Qawi Wilson must be dismissed with prejudice pursuant to § 1915(e)(2)(B) because § 1983 claims against these non-

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Section

U.S.C.

"such State

State itself." 2005) "To

Supreme

activity." Cir. 2009) Complaint

Court Court



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U.S.C. "the \$75,000, States." state actors are not plausible. 1983 requires that an individual acting under color of state law engaged in the conduct allegedly violative of the Constitution. 42 § 1983. The allegations in the Complaint are clear that John Doe at Insurance Co., John Doe and/or Jane Doe at the Taylor Hospital Medical Department, and Qawi Wilson are private citizens, not state actors. Whether a defendant is acting under color of state law-i.e., whether the defendant is a state actor--depends on whether there is a close nexus between the and the challenged action' that seemingly private behavior may be fairly treated as that of the

Leshko v. Servis, 423 F.3d 337, 339 (3d Cir. (internal quotations omitted). answer that question, [the Third Circuit has] outlined three broad tests generated by Court jurisprudence to determine whether state action exists: (1) whether the private entity has exercised powers that are traditionally the exclusive prerogative of the state; (2) whether the private party has acted with the help of or in concert with state officials; and (3) whether the state has so far insinuated itself into a position of interdependence with the acting party that it must be recognized as a joint participant in the challenged Kach v. Hose, 589 F.3d 626, 646 (3d (internal quotations and alteration omitted). There is no basis alleged in Wilson's

to determine that these Defendants are state actors. Accordingly, the federal constitutional claims asserted against them must be dismissed with prejudice.

Because the has dismissed Wilson's federal claims against these Defendants, the will not exercise supplemental jurisdiction over any state law claims against them. Accordingly, the only independent basis for jurisdiction over any such claims is 28 § 1332(a), which grants a district court jurisdiction over a case in which matter in controversy exceeds the sum or value of exclusive of interest and costs, and is between ... citizens of different

5 ..

Section "'complete

defendant.'" 800 104 Cir. 2015)

U.S. (2005) Cir. 2010)

Co.,

Other

Complaint. 4

"State Mcilvaine" "tacticle pit-maneuver"



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(Officers Clemons), 1332(a) requires diversity between all plaintiffs and all defendants,' even though only minimal diversity is constitutionally required. This means that, unless there is some other basis for jurisdiction, 'no plaintiff [may] be a citizen of the same state as any

Lincoln Ben. Life Co. v. AEI Life, LLC, F.3d 99, (3d (quoting Lincoln Prop. Co. v. Roche, 546 81, 89 and Zambelli Fireworks Mfg. Co. v. Wood, 592 F.3d 412, 419 (3d (internal footnotes omitted))). Because there is no complete diversity among the parties to this suit, Wilson's state law claims against Defendants John Doe at Insurance John Doe and/or Jane Doe at the Taylor Hospital Medical Department, and Qawi Wilson will be dismissed without prejudice.

C. Defects Applicable to All Claims/Defendants

than his allegations about Qawi Wilson, Superintendent John Doe and Mayor Kirkland, the Complaint explicitly refers to only one other Defendant in the text of the

Wilson asserts that Trooper utilized a to stop the vehicle. There are no specific factual allegations in the Complaint as to the remaining named Defendants.

Rather, Wilson's Complaint consists entirely of conclusory allegations that his constitutional rights were violated in connection with the events that occurred from 25,

through November 1, In short, Wilson's does not include any allegations as to any conduct engaged in by any of the named Defendants that allegedly violated his Constitutional rights. His Complaint, therefore, must be dismissed. Because this Court cannot

4 Though Wilson names other individuals as Defendants in the caption to his Complaint Cobbold, Duncan, Jackson, Ticknor and these individuals are not mentioned in the text of the Complaint and it is unclear what, if any role, they played in the alleged violation of Wilson's constitutional rights.

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IV. CONCLUSION

Order

2019 state with certainty that Wilson will be unable to state a viable claim, he will be granted leave to amend his Complaint.

For the foregoing reasons, the Court will grant Wilson leave to proceed inform a pauperis, dismiss his



WILSON v. JOHN DOE GEORGE W. HILL CORRECTIONAL FACILITY - DELAWARE COUNTY PRISON C

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Complaint in part with prejudice and in part without prejudice and grant him leave to amend. An appropriate follows.

December 16,

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