# Pinson v. Federal Bureau of Prisons et al

2022 | Cited 0 times | D. New Mexico | November 8, 2022

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

JEREMY PINSON,

Plaintiff, v. No. 1:21-cv-00185-KWR-JHR FEDERAL BUREAU OF PRISONS, FNU LNU LIEUTENANT,

Defendants.

ORDER DIRECTING SUPPLEMENT THIS MATTER is before the Court on Plaintiff Jeremy Pinson pro se Prisoner Civil Rights Complaint (Doc. 1) . Plaintiff is a federal prisoner in the custody of the seeks to sue the BOP and an unknown lieutenant for an alleged violation of his Eighth Amendment rights. Specifically, Plaintiff alleges that when BOP transported him by bus from USP Victorville (in California) to FOI La Tuna (in Texas), he was subjected to inhumane treatment. (Doc. 1 at 12). Among other things, Plaintiff alleges that he was continuously held in restraints that compressed his wrists to the point of nerve damage. (Id. at 5, 12). He alleges that during a stop in New Mexico, he asked the Lieutenant to loosen the restraints and to take him to a hospital to treat his injured hands, but the Lieutenant refused. (Id. at 12).

Claims against federal agents for the alleged deprivation of constitutional rights are analyzed under Bivens v. Six Unknown Fed. Narcotics Agents, 403 U.S. 388 (1971). In Bivens, the Supreme Court recognized a cause of action arising under the Constitution itself, allowing a damages remedy to compensate persons injured by federal officers who violated the Fourth

Id. at 397. The Supreme Court has held that a Bivens remedy may be available against federal prison officials for violations of the Eighth Amendment. Smith v. United States, 561 F.3d 1090, 1099 100 (10th Cir. 2009), citing Carlson v. Green, 446 U.S. 14, 18 (1980).

A prisoner may bring a Bivens ng individual officer, however, Bivens Corr. Servs. Corp. v. Malesko, 534 U.S. 61, 72 (2001). As such, the BOP is not a proper Defendant in this action claims against the BOP must be dismissed accordingly.

While the Lieutenant may be subject to liability under Bivens, the Complaint does not provide an

adequate description of him to allow the action to proceed. The Tenth Circuit has y of a plaintiff to use unnamed defendants so long as the plaintiff provides an adequate description of some kind which is sufficient to identify the person involved so process Roper v. Grayson, 81 F.3d 124, 126 (10th Cir. 1996). Plaintiff has not included any description of the Lieutenant from which the Court could identify him for the service of process.

If Plaintiff wishes to pursue a Bivens claim against the Lieutenant, he must file a supplement that includes an adequate description of that individual within thirty (30) days of entry of this Order. The supplement must also provide an address where service may be made or additional orders regarding the identity of the Lieutenant may be sent if that address is different from the Victorville address listed on the Complaint. The Court will not sua sponte investigate See Washington v. Correia, the whereabouts of defendants to effectuate service rather than obliging courts to assist in this

endeavor even when the plaintiffs are in prison. Failure to timely file a supplement may result in dismissal of this action without further notice.

IT IS ORDERED that within thirty days of the entry of this Order, Plaintiff shall file a supplement as set forth herein.

IT IS SO ORDERED.

_____ KEA W. RIGGS UNITED STATES DISTRICT JUDGE