

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JACK WILLIAMS,

Plaintiff,

v.

OPINION & ORDER

TORRIA VAN BUREN and JAMES MUENCHOW,

18-cv-41-jdp

Defendants.

Pro se plaintiff Jack Williams, an inmate incarcerated at the Waupun Correctional Institution (WCI), brings this civil complaint under 42 U.S.C. § 1983 alleging that defendants, CCI officials, failed to respond adequately to his medical needs. Williams has paid the initial partial filing fee for this action as ordered by the court.

The next step is for me to screen the complaint and dismiss any portion that is legally frivolous, malicious, fails to state a claim upon which relief may be granted, or asks for money damages from a defendant who by law cannot be sued for money damages. 28 U.S.C. §§ 1915 & 1915A. In screening any pro se litigant's complaint, the court must read the allegations of the complaint generously. *Haines v. Kerner*, 404 U.S. 519, 520–21 (1972). I will allow Williams to proceed on an Eighth Amendment deliberate indifference claim against defendant Torria Van Buren, but I will dismiss his claim against defendant James Muenchow. I will deny Williams's request for counsel.

ALLEGATIONS OF FACT

I draw the following facts from Williams's complaint, Dkt. 1, and I accept them as true at the screening stage.

Plaintiff Jack Williams is an inmate at WCI. Defendant Torria Van Buren is a psychologist at WCI. Defendant James Muenchow is an institution complaint examiner at WCI.

On the morning of March 30, 2017, Williams told a WCI correctional officer and a WCI sergeant multiple times that he was having suicidal thoughts, including urges to cut himself, and he asked to be placed on clinical observation. Eventually, Williams was escorted from his cell to a cell near the sergeant's cage. Williams saw Van Buren standing at the cage talking and laughing with the sergeant. Williams told Van Buren, "I am having suicidal thoughts to cut my own throat. I am requesting to be placed in clinical observation. What are you doing, I'm the one who got the problem!" *Id.* at 3. Van Buren responded to Williams, "This for you!" *Id.* She then told the sergeant, "He can go back to his cell." *Id.*

Williams was escorted back to his cell. He began to cut his arm. He was removed from his cell, given medical treatment, and placed in observation.

Later, Van Buren wrote on an observation form that Williams "refused to answer questions regarding self-harm, as a result the contact was terminated." *Id.*

Williams filed a grievance about this incident, and Muenchow dismissed it.

ANALYSIS

Williams attempts to bring claims under 42 U.S.C. § 1983 for violation of his rights under the Eighth Amendment. The Eighth Amendment prohibits prison officials from acting with deliberate indifference toward prisoners' serious medical needs. *Estelle v. Gamble*, 429 U.S. 97, 103–04 (1976). To state a deliberate indifference claim against a defendant, Williams must allege that the defendant was aware of a substantial risk of harm and

consciously failed to take reasonable measures to help him. *Gevas v. McLaughlin*, 798 F.3d 475, 480 (7th Cir. 2015). A risk of suicide is an objectively serious harm. *Minix v. Canarecci*, 597 F.3d 824, 831 (7th Cir. 2010).

In his complaint, Williams alleges that he told Van Buren that he was at risk of attempting suicide by cutting himself and asked to be placed in observation, but Van Buren ignored him and simply directed that he be returned to his cell. Later, Williams cut himself. So Brown states an Eighth Amendment claim against Van Buren.

But Williams does not state a claim against Muenchow. Muenchow did not become aware of the situation until much later, when Williams filed a grievance about it. At that point, there was nothing for Muenchow to do—the risk of harm had already passed. So I will dismiss Williams’s claim against Muenchow and the case will go forward against Van Buren alone.

Williams also asks that I attempt to recruit counsel to represent him. Dkt. 4. Litigants in civil cases do not have a constitutional right to counsel, and I do not have the authority to appoint counsel to represent a pro se plaintiff in a civil matter. Rather, I can only assist in recruiting counsel who may be willing to serve voluntarily. *See* 28 U.S.C. § 1915(e)(1); *Pruitt v. Mote*, 503 F.3d 647, 654, 656 (7th Cir. 2007) (en banc). To prove that assistance in recruiting counsel is necessary, this court generally requires that a pro se plaintiff: (1) provide the names and addresses of at least three lawyers who decline to represent him in this case; and (2) demonstrate that his is one of those relatively few cases in which it appears from the record that the legal and factual difficulty of the case exceeds his demonstrated ability to prosecute it. *Id.* at 655; *see also Young v. Cramer*, No. 13-cv-077, 2013 WL 5504480, at *2 (W.D. Wis. Oct. 3, 2013).

Williams provides evidence that he has contacted more than three attorneys about representation in this case, so that requirement is satisfied. But he has not shown that he lacks the ability to litigate his claims. He argues that the case is complex because it involves more than one defendant. But I am allowing Williams to proceed against only one defendant. He also argues that he has no legal education and limited access to the law library. Unfortunately, many pro se litigants face these difficulties and not alone reasons to assist in recruiting counsel. It is too early to tell whether Williams's claim will outstrip his litigation abilities. For example, the case may not pass the relatively early stage in which the defendant may file a motion for summary judgment based on a preliminary issue that could result in dismissal of the case before it advances deep into the discovery stage of the litigation. So I will deny Williams's motion for now. Should the case pass the early stage of litigation, and should Williams continue to believe that he is unable to litigate the suit himself, then he may renew his motion. If he does so, he will have to explain what specific litigation tasks he cannot perform himself.

ORDER

IT IS ORDERED that:

1. Plaintiff Jack Williams is GRANTED leave to proceed on an Eighth Amendment deliberate indifference claim against defendant Torria Van Buren.
2. Plaintiff's remaining claim is DISMISSED for failure to state a claim upon which relief can be granted.
3. Plaintiff's motion for assistance in recruiting counsel, Dkt. 4, is DENIED without prejudice.
4. Pursuant to an informal service agreement between the Wisconsin Department of Justice and this court, copies of plaintiff's complaint and this order are being sent today to the Attorney General for service on defendant. Plaintiff should not

attempt to serve defendant on his own at this time. Under the agreement, the Department of Justice will have 60 days from the date of the Notice of Electronic Filing of this order to answer or otherwise plead to plaintiff's complaint if it accepts service for defendant.

5. For the time being, plaintiff must send defendant a copy of every paper or document that he files with the court. Once plaintiff learns the name of the lawyer or lawyers who will be representing defendant, he should serve the lawyer directly rather than defendant. The court will disregard documents plaintiff submits that do not show on the court's copy that he has sent a copy to defendant or to defendant's attorney.
6. Plaintiff should keep a copy of all documents for his own files. If he is unable to use a photocopy machine, he may send out identical handwritten or typed copies of his documents.
7. If plaintiff is transferred or released while this case is pending, it is plaintiff's obligation to inform the court of his new address. If he fails to do this and defendant or the court are unable to locate him, his claims may be dismissed for his failure to prosecute them.

Entered July 26, 2018.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge