UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

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January 8, 2021

By the Court:

No. 20-2972	CHADD A. MORRIS, Plaintiff - Appellant v. SHAN JUMPER, et al., Defendants - Appellees
Originating Case Information:	
District Court No: 4:18-cv-04121-SLD Central District of Illinois District Judge Sara Darrow	

This cause, docketed on October 13, 2020, is **DISMISSED** for failure to timely pay the required docketing fee, pursuant to Circuit Rule 3(b).

form name: **c7_FinalOrderWMandate**(form ID: **137**)

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
ROCK ISLAND DIVISION

CHADD A. MORRIS,

Plaintiff,

v.

SHAN JUMPER, *et al.*

Defendants.

18-4121

SUMMARY JUDGMENT ORDER

Plaintiff, proceeding pro se and presently civilly detained at Rushville Treatment and Detention Center brought the present lawsuit pursuant to 42 U.S.C. § 1983 alleging a violation of his Fourteenth Amendment rights. The matter comes before this Court for ruling on the Defendants' Motions for Summary Judgment. (Docs. 112, 123). The motions are granted.

PRELIMINARY MATTERS

Plaintiff's Motion to Clarify, Object, and Reconsider (Doc. 120)

Plaintiff asks the Court to reconsider the rulings made in its December 19, 2019 Order. (Doc. 116). "Motions for reconsideration serve a limited function: to correct manifest errors of law or fact or to present newly discovered evidence." *Caisse Nationale de Credit Agricole v. CBI Industries, Inc.*, 90 F.3d 1264, 1269 (7th Cir. 1996) (internal citations and quotation marks omitted).

The Court's December 2019 Order denied Plaintiff's request for injunctive relief relating to the treatment he was receiving at the time. The Court's ruling was limited to a finding that Plaintiff had not made the requisite showing to warrant injunctive relief and that the Court otherwise lacked authority to issue the orders Plaintiff desired. Plaintiff has not presented any

newly discovered information or shown how the Court misapplied the law. Plaintiff's motion is denied.

Plaintiff's Motions to Object (Docs. 121, 127, 129)

Plaintiff asks the Court to strike Defendants' respective replies to his summary judgment responses. Local rules limit arguments in a reply brief "to new matters to new matters raised in the response and must not restate arguments already raised in the motion." CDIL L.R. 7.1(D)(3)(b). Plaintiff argues Defendants rehashed arguments made in their original motions and thus violated the local rules.

Defendants' reply arguments are limited in scope to addressing the arguments Plaintiff made in his respective responses. This was permissible. Plaintiff's motions (Doc. 121, 127) are denied. Plaintiff's motion (Doc. 129) is denied as duplicative. *Compare* (Doc. 127).

Plaintiff's Motions to Give Court Clarification (Doc. 128, 130)

Plaintiff states that Defendants mischaracterized one of his summary judgment responses as an "amended response," and that he intended for the Court to consider the relevant document as a supplemental response. Plaintiff seeks to ensure that his initial response is not considered moot. The Court did not consider any previous responses as moot. As there is no relief the Court can grant Plaintiff, the motion (Doc. 128) is denied. Plaintiff's motion (Doc. 130) is denied as duplicative. *Compare* (Doc. 128).

Plaintiff's Motions (Docs. 131, 135, 137, 138, 139)

Plaintiff filed several motions asking the Court to consider several events that occurred between March 2020 and August 2020 as evidence of Defendants' liability. Plaintiff alleges in the motions that TDF staff cannot offer treatment to address his issues with developing healthy sexual relationships because TDF rules prohibit residents from having sex with each other, that

the rules against touching other residents are not enforced equally, that recommendations in his April 2020 Master Treatment Plan do not render this lawsuit moot, that other residents acted maliciously towards him during a group therapy session in July 2020, that the facility refuses to provide him with individualized treatment, and that officials have refused to follow recommendations because of the Covid-19 pandemic.

The events Plaintiff alleges occurred after discovery closed in this matter and after Defendants' motions for summary judgment were fully briefed. The events involve several TDF officials who are not defendants in this lawsuit and relate to distinct treatment decisions not at issue in this lawsuit. Reopening discovery or permitting Plaintiff to pursue these allegations in this lawsuit would unnecessarily delay these proceedings and violate the rules of joinder. *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007) ("Unrelated claims against different defendants belong in different suits."); *Owens v. Godinez*, 860 F.3d 434, 436 (7th Cir. 2017) ("[D]istrict courts should not allow inmates to flout the rules for joining claims and defendants…or to circumvent the Prison Litigation Reform Act's fee requirements by combining multiple lawsuits into a single complaint."). Plaintiff's motions are denied.

Plaintiff's Motion for Reconsideration (Doc. 136)

Plaintiff asks the Court to reconsider previous rulings under 28 U.S.C. § 1331 and 28 U.S.C. § 1343. Plaintiff asks the Court to apply these statutes "to the claims/issues already presented in this suit…to then afford the Plaintiff his 'widest ability to recover on damages to him… and subsequently to reconsider all prior dismissed claims.'" (Doc. 136 at 3).

The Court's Merit Review Opinion found that Plaintiff stated a Fourteenth Amendment claim for inadequate sex offender treatment. (Doc. 8). The Court later denied Plaintiff's request for leave to add a First Amendment retaliation claim for lack of information regarding the names

of the officials who allegedly retaliated and when they did so. (Doc. 69 at 3). Plaintiff did not file a motion seeking leave to amend his complaint thereafter.

The statutes Plaintiff cites grant the Court jurisdiction over Plaintiff's federal civil claims. The Court did not dismiss any claims for lack of jurisdiction, and its jurisdiction over the claims pending in this lawsuit is not in dispute. Plaintiff's motion is denied.

Defendants' Motion to Strike (Doc. 132) and Plaintiff's Motion for Clarification (Doc. 143)

Defendants characterized Plaintiff's motions (Docs. 127, 129, 131) as sur-replies to Defendants' summary judgment reply, and they ask the Court to strike these documents. Plaintiff filed a motion (Doc. 143) in response asking the Court to strike Defendants' reply briefs. Both motions are denied as moot.

SUMMARY JUDGMENT STANDARD

Summary judgment should be granted "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). All facts must be construed in the light most favorable to the non-moving party, and all reasonable inferences must be drawn in his favor. *Ogden v. Atterholt*, 606 F.3d 355, 358 (7th Cir. 2010). The party moving for summary judgment must show the lack of a genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). In order to be a "genuine" issue, there must be more than "some metaphysical doubt as to the material facts." *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986). "Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986).

FACTS

Plaintiff is civilly detained at Rushville Treatment and Detention Facility ("TDF") pursuant to the Sexually Violent Persons Commitment Act, 725 Ill. Comp. Stat. § 207/1 *et seq.* ("SVP Act"). The SVP Act defines "sexually violent person" as "a person who has been convicted of a sexually violent offense...and who is dangerous because he or she suffers from a mental disorder that makes it substantially probable that the person will engage in acts of sexual violence." 725 Ill. Comp. Stat. § 207/5(f). A person detained under the Act remains so confined until the state court discharges the commitment petition or enters a commitment order. *Id.* § 207/35(f). Commitment lasts until such time that the individual is no longer a sexually violent person. *Id.* § 207/40(a).

Defendants are employed at the TDF in the following capacities: Defendant Scott is the Program Director; Defendant Jumper is the Clinical Director; Defendants Dobier, Sheldon, Moody, Howell, Houzenga, Smith, and Pettiford are clinical therapists assigned to Plaintiff's treatment team ("treatment team," collectively); and, Defendants Simpson and Vincent are grievance examiners. Plaintiff alleges these individuals violated his Fourteenth Amendment rights.

The TDF offers a voluntary group therapy program designed to treat the mental health conditions that predicate a resident's confinement. (Doc. 123-2 at 2, ¶ 8). Programs include sex-offender specific treatment ("core treatment"), as well as other rehabilitative programs, "designed to help residents understand and control thought processes which may lead to sexual offenses, to control deviant arousal, and to help residents avoid problems that may have led to past sexual offenses." *Id.*, ¶ 9. The goal of treatment "is to assist the resident in learning the skills necessary to prevent relapse of the behaviors which led to commitment." *Id.*, ¶ 10. Each resident

who consents to treatment is assigned to a treatment team comprised of mental health professionals responsible for developing a treatment plan specific to the resident's needs. *Id.*, ¶ 11.

Plaintiff consented to treatment in March 2009. (Doc. 43-1 at 3). Plaintiff's treatment records suggest that in 2014-2015 he had been assigned to Disclosure group. *E.g.* (Doc. 43-19 at 11). Disclosure group is a core treatment group that requires Plaintiff to present the timeline and details of his sexual offenses and to receive feedback from treatment providers and other TDF residents to ensure that he takes full responsibility for his past offenses. Pl.'s Dep. 19:18-20:17. In the year or so preceding the events at issue in this lawsuit, Plaintiff participated in several treatment groups ancillary to core treatment designed to address issues that created barriers to treatment. (Doc. 43-19 at 6, 10) (Anger Management; Healthy Relationships); Pl.'s Dep. 43:5-11 (Distortions; Good Lives).

Treatment staff facilitating the "Power to Change" ancillary group in 2015-2016 noted Plaintiff's difficulties receiving feedback and interacting in a group setting. *See* (Doc. 43-20 at 19) (Plaintiff "had low receptivity to feedback from group members or facilitators."); *id.* at 9 (Plaintiff's feedback was sometimes harsh and unclear. He "appears to have much difficulty accepting feedback."); *id.* at 8 (Plaintiff antagonized other group members, disobeyed staff instructions, and made "inappropriate comments that detracted from the group."); *id.* at 5 (Plaintiff called other group members "fucking idiots," and made offensive hand and other gestures."); *id.* at 3 (Plaintiff "tended to have difficulty receiving feedback....[He] tended to be dismissive of others, discounted others feedback/questions, and rigid in his perceptions."); (Doc. 43-20 at 3) (Plaintiff's feedback was either accurate or "considerably inaccurate to the point it disrupts the group process and flow of discussion."); (Doc. 43-20 at 3) ("A group member

offered feedback that [Plaintiff] tended to react emotionally before thinking things through. [Plaintiff] attempted to utilize the statement as a justification for his actions and also that others should know that is how he reacts.").

Plaintiff returned to Disclosure group in August 2016, after showing signs of improvement. *Id.* at 5 ("When [Plaintiff was] composed, he was capable of offering feedback and asking pointed, but appropriate questions."); (Doc. 43-4 at 17) (Plaintiff's "delivery while offering feedback appeared sincere and appropriate. He was open to criticism and feedback."). Treatment records indicate no issues in Disclosure group through the beginning of 2017.

Plaintiff's treatment records for March 2017 indicate that he had exhibited "some growths in the group setting however [Plaintiff] has taken some steps back behaviorally with his commitment to treatment." (Doc. 123-2 at 3). Plaintiff had been asked to leave a group session after he disobeyed staff directions, and he participated in group discussions "in a passive aggressive or in a sarcastic manner rather than an assertive manner." *Id.* On April 4, 2017, Plaintiff's treatment team noted Plaintiff's "ongoing issue[s] such a crossing boundaries, sexually acting out, and spending a significant amount of time focusing on what [Plaintiff] perceived as injustices instead of focusing on positive change and interpersonal effectiveness." (Doc. 123-2 at 2). On April 12, 2017, Plaintiff's treatment team decided that Plaintiff "will not go to Disclosure Group until he has proven that he can follow directions, meet behavioral expectations outside of group (no rule violations, etc) and complete special assignments to the satisfaction of the treatment team." (Doc. 123-2 at 2). Plaintiff was assigned to mentoring group on Defendant Dobier's caseload. *Id.*

Plaintiff attended mentoring sessions once per week through mid-May 2017. (Doc. 123-2 at 1). Defendant Dobier asked Plaintiff to complete written assignments on the following topics:

"How anger is [a] barrier for his progress in treatment/group, Entitlement, most recent inappropriate behaviors on the unit and sexually acting out within the last year." *Id.* Plaintiff failed to complete his first assignment in the manner directed, told treatment staff he could not complete the inappropriate behavior and sexually acting out assignment because he had not engaged in such activity, and expressed his belief that the treatment team was "dicking him around." *Id.* Plaintiff's treatment team referred Plaintiff to the Power to Change group on May 17, 2017, to address barriers that included "not taking responsibility for his negative behaviors, being consistently argumentative, and continuously playing 'victim stance.'" *Id.*

Plaintiff disagreed with Defendant Dobier during a July 17, 2017 meeting that the Power to Change group would be able to address his barriers. (Doc. 43-17 at 14). He told Defendant Dobier that he would continue to file grievances on the issue. *Id.* Defendants Simpson and Vincent, in their capacities as grievances officers, told Plaintiff in their responses to his grievances that treatment decisions were not grievable and to contact his treatment team about treatment-related issues. (Doc. 123-6 at 15). Grievance examiners did not have the authority to override treatment decisions or otherwise recommend a course of treatment to Plaintiff's treatment team. (Doc. 123-4 at 3, ¶¶ 18-22). Emails Plaintiff provided show that Defendants Simpson and Vincent forwarded these grievances to Plaintiff's treatment team for a response. (Doc. 43-4 at 16, 19-25).

Plaintiff joined the Power to Change group in August 2017. (Doc. 43-17 at 16). Treatment records indicate that Plaintiff struggled to demonstrate the skills he would need to complete Disclosure group. *See id.* (Plaintiff "struggled to take feedback and even to listen before a group member was done speaking."); *id.* at 18 (Plaintiff "struggled to not monopolize the group" despite staff directions to refrain, "failed to accept responsibility for any part" in a

negative incident he had with security staff, and "often discounts feedback of other group member as well as therapists."); *id.* at 20 (Plaintiff "continued to struggle with taking personal responsibility for issues he experiences with other residents and staff," and "offers feedback to others in a way that serves his own agenda...and is often limited in insight and personal responsibility."); *id.* at 22 (Plaintiff struggled with (1) "insight into his barriers and need for change," (2) blame towards countless others in the facility many of whom have no control over issues he presents," (3) entitlement issues, and (4) "negative behaviors and attempted manipulation tactics towards group members as well as therapists."); (Doc. 43-18 at 4) (Plaintiff "struggles to put his feelings into words and struggles to explain himself without blame towards others."). Plaintiff showed some progress. *Id.* (Plaintiff "was noted to give spot on feedback and was informed of such."); (Doc. 43-18 at 2) ("Mr. Morris was able to show improvement in his delivery of feedback and ability to receive feedback without becoming dysregulated.").

Defendants Simpson, Vincent, Scott, and Jumper did not participate in the treatment decisions Plaintiff challenges in this lawsuit. Defendant Pettiford began employment at the TDF on July 24, 2017; she was not involved in any treatment decision prior to that point. (Doc. 123-7 at 1, ¶ 1).

ANALYSIS

Civil detainees are constitutionally entitled to conditions and durations of confinement that bear some reasonable relationship to the purposes for which they are committed. *Allison v. Snyder*, 332 F.3d 1076, 1079 (7th Cir. 2003). Officials must provide "some treatment" for the underlying mental health conditions that led to a resident's confinement, but the nature of that treatment is left to the discretion of qualified mental health professionals. *Id.* at 1081. Treatment decisions are "presumptively valid" and entitled to deference unless the evidence shows that the

decision constituted "such a substantial departure from accepted professional judgment, practice, or standards, as to demonstrate that the person responsible actually did not base the decision on such a judgment." *Sain v. Wood*, 512 F.3d 886, 895 (7th Cir. 2009); *see also Youngberg v. Romeo*, 457 U.S. 307, 323 (1982).

Plaintiff argues that 20 Ill. Admin. Code § 1905 creates the relevant professional standards and prohibits Defendants from "imposing behavioral expectations to the Plaintiff, and relying on his so called 'adverse behavioral issues'...when making" treatment decisions. (Doc. 125 at 5). Section 1905 states that treatment providers must abide by the current ethical and professional standards in their fields of expertise, appreciate that sex-offender treatment "is an evolving science," and "recognize the importance of individualized, assessment-driven treatment services." 20 Ill. Admin. Code § 1905.90. The section does not prescribe the specific manner that sex-offender treatment must be provided, nor does Plaintiff cite to any provision that prohibits consideration of behavioral issues as they relate to a resident's ability to successfully complete the requirements of treatment.

Plaintiff does not provide evidence showing that the prevailing standards in the field render consideration of his behavior at the TDF wholly inappropriate or unrelated to factors that may cause him to reoffend. Assuming Plaintiff could show a violation of state law, Defendants' alleged noncompliance does not create a federally enforceable right or demonstrate a constitutional violation. *Guarjardo-Palma v. Martinson*, 622 F.3d 801, 806 (7th Cir. 2010) ("[A] violation of state law is not a ground for a federal civil rights suit."); *Allison*, 332 F.3d at 1079 (The federal constitution does not "permit a federal court to enforce state laws directly.").

Plaintiff's treatment team has consistently opined that he needed to learn and demonstrate an ability to positively interact with group members and accept responsibility for his everyday

actions before he would be able to successfully complete the requirements of Disclosure group. Nothing in the record suggests that their decisions to place Plaintiff in ancillary groups designed to address these issues lacked the requisite exercise of professional judgment. Plaintiff does not have a constitutional right to remain in any specific treatment group, and his disagreement with the treatment team's decisions is insufficient to impose constitutional liability. *Williams v. Ortiz*, 937 F.3d 936, 944 (7th Cir. 2019).

Defendants Scott, Jumper, Simpson, and Vincent were not personally involved in the treatment decisions Plaintiff challenges, and, therefore, they cannot be held liable for same under § 1983. *Vance v. Peters*, 97 F.3d 987, 991 (7th Cir. 1996) ("Section 1983 creates a cause of action based on personal liability and predicated upon fault; thus, liability does not attach unless the individual defendant caused or participated in a constitutional deprivation."). Defendants Scott, Simpson, and Vincent were entitled to defer to the expertise of Plaintiff's treatment team without fear of liability for doing so. *See Berry v. Peterman*, 604 F.3d 435, 440 (7th Cir. 2010). Defendants Simpson and Vincent informed Plaintiff of the proper channels through which he could address treatment decisions and otherwise notified treatment staff of his concerns. Plaintiff has not shown a constitutional deprivation of which Defendant Jumper could have been aware and able to remedy

The Court finds that no reasonable juror could conclude that Defendants violated Plaintiff's Fourteenth Amendment rights.

IT IS THEREFORE ORDERED:

1) **Plaintiff's Motions [120][121][127][128][129][130][131][134][135][136][137][138][139] are DENIED.**

2) **Defendants' Motion [132] is DENIED.**

3) **Defendants' Motions for Summary Judgment [112][123] are GRANTED. The clerk of the court is directed to enter judgment in favor of Defendants and against Plaintiff. All pending motions not addressed below are denied as moot.**

4) **If Plaintiff wishes to appeal this judgment, he must file a notice of appeal with this Court within 30 days of the entry of judgment. Fed. R. App. P. 4(a)(4). A motion for leave to appeal in forma pauperis MUST identify the issues the Plaintiff will present on appeal to assist the court in determining whether the appeal is taken in good faith. *See* Fed. R. App. P. 24(a)(1)(c); *see also Celske v Edwards*, 164 F.3d 396, 398 (7th Cir. 1999)(an appellant should be given an opportunity to submit a statement of his grounds for appealing so that the district judge "can make a reasonable assessment of the issue of good faith."); *Walker v. O'Brien*, 216 F.3d 626, 632 (7th Cir. 2000)(providing that a good faith appeal is an appeal that "a reasonable person could suppose...has some merit" from a legal perspective). If Plaintiff does choose to appeal, he will be liable for the $505.00 appellate filing fee regardless of the outcome of the appeal.**

Entered this 24th day of September, 2020.

s/Sara Darrow
SARA DARROW
CHIEF U.S. DISTRICT JUDGE