

No. 21-1182

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Jan 05, 2022
DEBORAH S. HUNT, Clerk

RUFUS LAMAR SAVIN SPEARMAN,

Plaintiff-Appellant,

V.

GRETCHEN WHITMER, GOVERNOR, STATE OF MI, ET AL.,

Defendants-Appellees.

ORDER

BEFORE: MOORE, GILMAN, and KETHLEDGE, Circuit Judges.

The court received a petition for rehearing en banc. The original panel has reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. The petition then was circulated to the full court.* No judge has requested a vote on the suggestion for rehearing en banc.

Therefore, the petition is denied. Further, the motion for appointment of counsel is denied.

ENTERED BY ORDER OF THE COURT

Rich L. Hunt

Deborah S. Hunt, Clerk

* Judge Griffin recused himself from participation in this ruling.

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

Deborah S. Hunt
Clerk

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Filed: January 05, 2022

Rufus Lamar Savin Spearman
St. Louis Correctional Facility
8585 N. Croswell Road
St. Louis, MI 48880

Re: Case No. 21-1182, Rufus Spearman v. Gretchen Whitmer, et al
Originating Case No.: 2:20-cv-00185

Dear Mr. Spearman,

The Court issued the enclosed Order today in this case.

Sincerely yours,

s/Beverly L. Harris
En Banc Coordinator
Direct Dial No. 513-564-7077

Enclosure

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

Deborah S. Hunt
Clerk

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Filed: November 10, 2021

Mr. Rufus Lamar Savin Spearman
St. Louis Correctional Facility
8585 N. Croswell Road
St. Louis, MI 48880

Re: Case No. 21-1182, Rufus Spearman v. Gretchen Whitmer, et al
Originating Case No.: 2:20-cv-00185

Dear Mr. Spearman,

The Court issued the enclosed Order today in this case.

Sincerely,

s/Antoinette Macon
Case Manager
Direct Dial No. 513-564-7015

cc: Mr. Thomas Dorwin

Enclosure

Mandate to issue

NOT RECOMMENDED FOR PUBLICATION

No. 21-1182

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**FILED**Nov 10, 2021
DEBORAH S. HUNT, Clerk

RUFUS LAMAR SAVIN SPEARMAN,

Plaintiff-Appellant,

v.

GRETCHEN WHITMER, Governor, State of MI,
et al.,

Defendants-Appellees.

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)
)
) ON APPEAL FROM THE UNITED
) STATES DISTRICT COURT FOR
) THE WESTERN DISTRICT OF
) MICHIGAN
)
)

ORDER

Before: MOORE, GILMAN, and KETHLEDGE, Circuit Judges.

Rufus Lamar Savin Spearman, a Michigan prisoner proceeding pro se, appeals the district court's judgment dismissing his 42 U.S.C. § 1983 complaint pursuant to the Prison Litigation Reform Act ("PLRA"), 28 U.S.C. §§ 1915(e)(2), 1915A(b) and 42 U.S.C. § 1997e(c). Spearman requests that we take judicial notice of certain facts that he asserts support his various claims. This case has been referred to a panel of the court that, upon examination, unanimously agrees that oral argument is not needed. ~~See~~ Fed. R. App. P. 34(a).

At the time giving rise to his allegations, Spearman was confined at the following institutions within the Michigan Department of Corrections ("MDOC"): Baraga Correctional Facility ("AMF"); Woodland Correctional Facility ("WCC"); Chippewa Correctional Facility ("URF"); and the Earnest C. Brooks Correctional Facility ("LRF"). Spearman alleged that on or about May 30, 2016, while housed at AMF, he wrote a letter of complaint to the Civil Service Commission requesting an investigation into a suspected conspiracy involving the MDOC, prison employees, and inmates. He alleged that on June 14, 2016, presumably in retaliation for his letter

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of complaint, two AMF social workers, Ann Lanala and (Unknown) Harju, completed a “mental health services referral,” in which they misrepresented information, fabricated facts, and intentionally lowered his global-assessment-of-functioning score. This resulted in him being transferred to the Crisis Stabilization Unit at WCC and involuntarily admitted into the Corrections Mental Health Program (“CMHP”), where he was injected with 20 milligrams of Haldol every day without his consent. Spearman claimed that the daily Haldol injections caused him to suffer various adverse side effects, for which he had to be medicated with Cogentin. He further claimed that his involuntary treatment with antipsychotic medication violated his Nuwaubian “way of life or lifestyle.”¹

Spearman stated that he was transferred to URF on or about September 28, 2017. He alleged that his involuntary treatment order was set to expire on October 11, 2017, but that CMHP director designee Jennifer Faha, URF social workers Cory Masuga and Melody Chapin, URF psychiatrists Aleksandra Wilanowski and Esmaeil Emami, and URF psychologist Kyle D. Wood continued the order “for fraudulent and fabricated reasons.” Spearman was apparently transferred to LRF at some point because, on or about May 22, 2018, CMHP staff at LRF allegedly “discovered that the facts and information used for the . . . involuntary treatment orders were false and unsubstantiated, and immediately discontinued the medication and discharged [him] from the CMHP.”

In September 2020, Spearman filed a § 1983 complaint against Michigan Governor Gretchen Whitmer and MDOC Director Heidi E. Washington, as well as Lanala, Harju, Faha, Masuga, Chapin, Wilanowski, Emami, and Wood. He alleged that, by forcibly medicating him with antipsychotic medications, the defendants violated his rights under the First, Eighth, and Fourteenth Amendments to the United States Constitution, as well as the Religious Land Use and Institutionalized Persons Act (“RLUIPA”), 42 U.S.C. §§ 2000cc, et seq. He sought damages and

¹ In describing his beliefs, Spearman stated that “it is what many in the mainstream society—including myself at times—refer to as a religion. It includes, inter alia, ancient [E]gyptian esoteric knowledge, in depth concepts concerning extraterrestrials and supreme beings, Native American divine naturel [sic] metaphysical beliefs, and [I]slamic traditions. Nuwaubu forbids the use of drugs.”

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injunctive relief. The district court screened and sua sponte dismissed Spearman's complaint with prejudice pursuant to the PLRA, determining that it failed to state a claim upon which relief may be granted. The district court thereafter denied Spearman's motion to alter or amend the judgment. ~~See~~ Fed. R. Civ. P. 59(e). On appeal, Spearman challenges the district court's dismissal of his complaint.

We review de novo a district court's decision to dismiss a complaint under §§ 1915(e), 1915A, and 1997e. *Grinter v. Knight*, 532 F.3d 567, 571-72 (6th Cir. 2008). The PLRA "requires district courts to screen and dismiss complaints that are frivolous or malicious, that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief." *Id.* at 572. We review the dismissal of claims at the screening stage under the standard set out in *Ashcroft v. Iqbal*, 556 U.S. 662 (2009). *Hill v. Lappin*, 630 F.3d 468, 470-71 (6th Cir. 2010). To avoid dismissal, "a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Iqbal*, 556 U.S. at 678 (quoting *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." *Id.* In reviewing the complaint, we "construe it 'in the light most favorable to the plaintiff, accepting its allegations as true, and draw all reasonable inferences in favor of the plaintiff.'" *Mills v. Barnard*, 869 F.3d 473, 479 (6th Cir. 2017) (quoting *Directv, Inc. v. Treesh*, 487 F.3d 471, 476 (6th Cir. 2007)). As a pro se litigant, Spearman is entitled to a liberal construction of his pleadings. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972) (per curiam). We consider each of Spearman's arguments in turn.²

First, Spearman argues that the district court erred in dismissing his First Amendment retaliation claims. "A retaliation claim essentially entails three elements: (1) the plaintiff engaged in protected conduct; (2) an adverse action was taken against the plaintiff that would deter a person of ordinary firmness from continuing to engage in that conduct; and (3) there is a causal connection

² Spearman does not appeal the district court's dismissal of his due process and Free Exercise claims and appeals only his Eighth Amendment deliberate indifference claims against Whitmer and Washington.

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between elements one and two—that is, the adverse action was motivated at least in part by the plaintiff's protected conduct.” *Thaddeus-X v. Blatter*, 175 F.3d 378, 394 (6th Cir. 1999) (en banc). Here, the protected conduct is presumably Spearman's letter from May 30, 2016, and the adverse action is the series of events that started following the mental-health-services referral of June 14, 2016. Besides temporal proximity, Spearman's complaint does not allege facts that Lanala, Harju, or any of the other defendants involved in medicating him either knew of his May 30 letter or provided any other indication of retaliatory motive. Cf. *Hill*, 630 F.3d at 476 (holding that a comment by prison official that prisoner “was going to be transfered [sic] because ‘they didn’t need the paper-work up here’” was evidence of retaliatory motive). Because “[c]onclusory allegations of retaliatory motive unsupported by material facts will not be sufficient to state a . . . claim [under § 1983],” the district court did not err in dismissing this claim. *Id.* at 475 (quoting *Harbin-Bey v. Rutter*, 420 F.3d 571, 580 (6th Cir. 2005)).

Next, Spearman argues that the district court erred in concluding that his claims against Lanala and Harju under the RLUIPA were time barred. Spearman, however, overlooks another aspect of the district court's ruling. Under RLUIPA, Spearman bears the initial burden of alleging that the requirement that he must stay drug free was “sincerely based on a religious belief and not some other motivation.” *Holt v. Hobbs*, 574 U.S. 352, 360-62 (2015). The district court ruled that Spearman's assertion of Nuwaubian beliefs on this point were conclusory. Because Spearman does not challenge this ruling, we decline to examine the issue further.

Finally, Spearman argues that the district court erred in dismissing his claims that Whitmer and Washington had acted with deliberate indifference to his complaints in violation of the Eighth Amendment. To state a deliberate-indifference claim based on a serious medical need, a prisoner must allege facts that indicate the officials in question knew of and disregarded the condition. See *Harrison v. Ash*, 539 F.3d 510, 518 (6th Cir. 2008). Spearman never provided any factual allegations concerning either Whitmer's or Washington's knowledge in his complaint. Consequently, the district court did not err in dismissing these claims.

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Accordingly, we **DENY** Spearman's motion to take judicial notice of certain facts because such notice is unnecessary to the resolution of this appeal. We **AFFIRM** the district court's judgment.

ENTERED BY ORDER OF THE COURT

A handwritten signature in black ink, appearing to read "Deborah S. Hunt", is written over a horizontal line.

Deborah S. Hunt, Clerk