

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS

ASHOOR RASHO, #B-38970,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL NO. 11-1308
)	
ROGER WALKER, et al.,)	
)	
Defendants.)	

**DEFENDANT GARLICK’S ANSWER TO PLAINTIFF’S
FIRST SEVERED COMPLAINT**

NOW COMES the Defendant, DR. JOHN GARLICK, by and through his attorney, Lisa Madigan, Attorney General for the State of Illinois, and hereby files his Answer to Plaintiff’s First Severed Complaint.

1. This paragraph requires no response.

PARTIES

2. Defendant admits plaintiff has been housed at Pontiac and Tamms and is currently incarcerated at Stateville Correctional Center. Defendant lacks sufficient knowledge to admit or deny plaintiff’s specific history.

3. Defendant admits defendant Walker was the Director of IDOC at some times relevant to this case and during that period had general oversight of the Department. Defendant denies the remaining allegations contained in this paragraph.

4. Defendant admits defendant Elyea was the Medical Director of IDOC at some times relevant to this case and had general oversight of the medical services provided to inmates. Defendant denies the remaining allegations contained in this paragraph.

5. Defendant admits defendant Navarro was the Chief of Mental Health for IDOC at some times relevant to this case and had general oversight of the mental health services provided to inmates. Defendant denies the remaining allegations contained in this paragraph.

6. Defendant admits defendant Jones was the Warden of Pontiac Correctional Center at some times relevant to this case and had general oversight of the facility. Defendant denies the remaining allegations contained in this paragraph.

7. Defendant admits the allegations contained in this paragraph.

8. Defendant lacks sufficient knowledge to admit or deny the specific treatment provided by defendant Massa, but otherwise admits the allegations contained in this paragraph.

JURISDICTION AND VENUE

9. Defendant admits the allegations in this paragraph.

10. Defendant admits the allegations in this paragraph.

FACTS

I. The Failure to Provide Constitutionally-Required Mental Health Care to Inmates in IDOC's Custody Generally.

11. Defendant denies the allegations in this paragraph.

12. Defendant denies the allegations in this paragraph.

13. Defendant denies the allegations in this paragraph.

14. Defendant denies the allegations in this paragraph.

15. Defendant denies the allegations in this paragraph.

16. Defendant denies the allegations in this paragraph.

17. Defendant denies the allegations in this paragraph.

18. Defendant denies the allegations in this paragraph.

19. Defendant denies the allegations in this paragraph.

20. Defendant denies the allegations in this paragraph.

21. Defendant denies the allegations in this paragraph.

22. Defendant denies the allegations in this paragraph.

23. Defendant lacks sufficient knowledge to admit or deny the allegations contained in this paragraph.

24. Defendant denies the allegations in this paragraph.

II. The Failure to Provide Mr. Rasho with Constitutionally-Required Mental Health Care While at Pontiac.

25. Defendant admits that plaintiff Rasho was readmitted to IDOC in 1996 and transferred to Pontiac on November 7, 2003. Defendant admits plaintiff remained at Pontiac until he transferred to Stateville on March 22, 2011.

26. Defendant denies that this paragraph completely and accurately states plaintiff Rasho's history of mental health issues and treatment, but admits Rasho has had periods of apparent stability, has refused to take medications, and has cut himself.

27. Defendant denies this paragraph completely and accurately states how plaintiff was treated. Defendant lacks sufficient knowledge to admit or deny how other institutions or medical personnel have treated plaintiff.

28. Defendant is unable to admit or deny the allegations in this paragraph because they are vague.

29. Defendant lacks sufficient knowledge to admit or deny the allegations in this paragraph.

30. Defendant lacks sufficient knowledge to admit or deny the allegations in this paragraph.

31. Defendant lacks sufficient knowledge to admit or deny the allegations in this paragraph.

32. Defendant admits plaintiff cut himself during the period described, but lacks knowledge as to the exact number or severity of the incidents.

33. Defendant denies the allegations in this paragraph.

34. Defendant denies the allegations in this paragraph.

35. Defendant denies the allegations in this paragraph.

36. Defendant denies that plaintiff was improperly transferred within Pontiac.

37. Defendant denies the allegations in this paragraph.

38. Defendant admits the allegations in this paragraph.

39. Defendant lacks sufficient knowledge to admit or deny interactions between plaintiff and other individuals. To the extent this allegation is directed against defendant, he denies the allegations.

40. Defendant denies the allegations in this paragraph.

41. Defendant denies the allegations in this paragraph.

42. Defendant denies the allegations in this paragraph.

III. Failure to Establish Policies and Protocols

43. Defendant admits he has treated plaintiff, and that protocols exist which guide this treatment. Defendant denies all treatment is determined by the protocols.

44. Defendant denies the allegations in this paragraph.

45. Defendant denies the protocols prevent the proper placement and treatment of inmates.

46. Defendant lacks sufficient knowledge to admit or deny what other defendants knew, but denies that conditions at Pontiac are properly characterized in this paragraph.

IV. Placement of Mr. Rasho In An Environment Toxic to His Mental Health

47. Defendant denies that this paragraph accurately describes defendants Jones' and Walker's roles regarding Pontiac.

48. Defendant is unable to admit or deny the allegations in this paragraph because they are vague as to date.

49. Defendant denies the allegations in this paragraph.

50. Defendant denies the allegations in this paragraph.

51. Defendant lacks sufficient knowledge to admit or deny the allegations in this paragraph. Additionally, it is unclear what plaintiff means by "numerous."

52. Defendant denies the allegations in this paragraph.

53. Defendant lacks sufficient knowledge to admit or deny the allegations in this paragraph.

54. Defendant denies the allegations in this paragraph.

COUNT I

(For Compensatory and Punitive Damages Against Defendants Walker, Elyea, Navarro, and Jones)

55-61. This count is directed against other defendants.

COUNT II

(For Compensatory and Punitive Damages against Defendants Jones and Walker)

62-65. This count is directed against other defendants.

COUNT III

(For Compensatory and Punitive Damages against Defendants Garlick and Massa)

66. Defendant reasserts his responses to paragraphs 1 to 10 and 25 to 42.

67. Defendant denies that plaintiff suffered from serious mental illnesses at all relevant times.

68. Defendant denies the allegations in this paragraph.

69. Defendant denies the allegations in this paragraph.

70. Defendant denies the allegations in this paragraph.

71. Defendant denies the allegations in this paragraph.

72. Defendant denies the allegations in this paragraph.

REQUEST FOR RELIEF

Defendant denies that Plaintiff is entitled to any relief in this matter.

AFFIRMATIVE DEFENSES

1. At all times relevant herein, defendant acted in good faith in the performance of his official duties and without violating plaintiffs' clearly established statutory or constitutional rights of which a reasonable person would have known. Defendant is therefore protected from suit by the doctrine of qualified immunity.

2. To the extent Plaintiff has failed to exhaust his administrative remedies as is required prior to filing suit under 42 U.S.C. 1983 by the Prison Litigation Reform Act (42 U.S.C. 1997) and *Perez v. Wisconsin Dept. of Corrections*, 182 F.3d 532 (7th Cir. 1999), his claims are barred.

3. The Eleventh Amendment to the United States' Constitution prohibits the Plaintiff from obtaining injunctive or declaratory relief, except to the extent necessary to stop an ongoing violation of the Plaintiff's Constitutional rights.

4. To the extent that Plaintiff challenges the allocation of state funds, his claims are barred by sovereign immunity.

5. Plaintiff's claims against Defendants in their official capacities are barred by sovereign immunity.

6. To the extent that the Plaintiff seeks mental or emotional damages and his claims fail to make the prerequisite showing of a physical injury, 42 U.S.C. 1997e(e) bars the Plaintiff from receiving such damages.

7. To the extent that Plaintiff bases his claim on the length of his incarceration, Plaintiff's claims are barred by *Heck v. Humphrey*, 512 U.S. 477, 114 S.Ct. 2364 (1994).

Respectfully submitted,

DR. JOHN GARLICK,

Defendant,

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