

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

JOHN CLYNE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 01-684-KAJ
	)	
CORRECTIONAL MEDICAL	)	
SERVICES, ET AL.,	)	
	)	
Defendants.	)	

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**MEMORANDUM OPINION**

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John P. Clyne, Jr., SBI #237099, Multi-Purpose Criminal Justice Facility, 1301 E. 12th Street, Wilmington, Delaware 19809, *pro se* plaintiff.

Kevin J. Connors, Esq., Marshall, Dennehy, Warner, Coleman & Goggin, 1220 N. Market St., Suite 500, P.O. Box 130, Wilmington, Delaware 19899, counsel for defendants Correctional Medical Services and Jeannie Long.

Richard W. Hubbard, Esq., Department of Justice, State of Delaware, 820 N. French Street, 8th Floor, Carvel Office Building, Wilmington, Delaware 19801, counsel for defendants Bradley A. Lee, Raphael Williams, and Stanley Taylor.

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Wilmington, Delaware  
March 8, 2004

## **JORDAN, District Judge**

### **I. INTRODUCTION**

Presently before me is a Motion to Dismiss filed by defendants Bradley A. Lee, a facility investigator at the Multi-Purpose Criminal Justice Facility (“MPCJF”) in Wilmington, Delaware, Raphael Williams, the MPCJF warden, and Stanley Taylor, the Commissioner of the Department of Corrections (collectively, the “State Defendants”) (Docket Item [“D.I.”] 13). Also before me is a Motion to Dismiss filed by defendant Correctional Medical Services (“CMS”), a corporation which provides medical services and treatment to inmates housed in correctional facilities in the State of Delaware.<sup>1</sup> (D.I. 26.) Plaintiff John P. Clyne, Jr. (“Clyne”), an inmate at the MPCJF, brought this action under 42 U.S.C. § 1983 alleging violations of his rights under the Eighth and Fourteenth Amendments to the United States Constitution and state law claims for negligence and medical malpractice. (D.I. 2.) Jurisdiction is proper under 28 U.S.C. §§ 1331 and 1367. For the reasons that follow, both Motions to Dismiss will be granted.

### **II. BACKGROUND**

For the past ten years, Plaintiff has suffered from alcohol dependence and clinical depression. (D.I. 2 at ¶¶ 12, 15.) From April 20, 2001 to July 2, 2001, while incarcerated at the MPCJF, Plaintiff was taking Paxil, an anti-depressant, prescribed to him by a CMS psychiatrist. (*Id.* at ¶¶ 18.) On July 3, 2001, Plaintiff was released from the MPCJF to Level 3 probation. (*Id.* at ¶¶ 20.) Plaintiff was not given any medication to take with him upon his release. (*Id.* at ¶¶ 21.)

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<sup>1</sup>Plaintiff also named Jeannie Long, a registered nurse employed by CMS at the MPCJF, as a defendant in this case. To date, Ms. Long has not filed any dispositive motions.

Plaintiff began drinking again after his release, and on July 10, 2001, he was arrested by the Wilmington Police for driving under the influence, and was later charged with violation of his probation. (*Id.* at ¶ 24, 25.) Due to these charges, Plaintiff was again incarcerated at the MPCJF. (*Id.*) Upon readmission, Plaintiff experienced severe alcohol withdrawal symptoms. (*Id.* at ¶ 36.)

On July 18, 2001, Plaintiff attempted to escape from custody after an appearance at a courthouse in Wilmington. (*Id.* at ¶ 39.) After this incident, defendant Lee issued an order placing Plaintiff on administrative segregation at the MPCJF. (*Id.* at ¶ 46.) Plaintiff also met with Dr. Joshi, a CMS psychiatrist, who prescribed him the medications Paxil and Trazadone, for insomnia. (*Id.* at ¶ 48.) After three days in the infirmary, Plaintiff was transferred back into the general prison population. (*Id.* at ¶ 49.) On July 23, 2001, Plaintiff was transferred to an isolation “pod,” or cell, where he remained for 16 days. (*Id.* at ¶¶ 53, 68.)

During this time, Plaintiff spent one night in a cell with an inmate he characterized as “angry and volatile,” and he was afraid to sleep that night. (*Id.* at ¶¶ 56-60.) On August 4, 2001, Plaintiff did not receive his medication because the entire isolation wing of the MPCJF was placed in lockdown for security reasons. (*Id.* at ¶¶ 63-67.) As a result, Plaintiff experienced some tremors in his extremities. (*Id.*) Plaintiff returned to the general prison population on August 8, 2001. (*Id.* at ¶ 73.) He did not receive his medication on August 8 and 9, 2001. (*Id.* at ¶ 76.)

Plaintiff requests a declaratory judgment that all defendants have violated, and continue to violate, his rights under the Eighth and Fourteenth Amendments by failing to provide adequate medical care and for transferring him to administrative segregation

without a hearing. Plaintiff also requests compensatory and punitive damages, to be assessed jointly and severally against all defendants.

### III. STANDARD OF REVIEW

In deciding a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6), the factual allegations in the complaint must be accepted as true. *Cruz v. Beto*, 405 U.S. 319, 322 (1972) (*per curiam*). This is especially true where, as here, the complaint is filed *pro se*. *Estelle v. Gamble*, 429 U.S. 97, 106 (1976) (citations omitted). A *pro se* complaint can only be dismissed for failure to state a claim if it appears “beyond doubt that a plaintiff can prove no set of facts in support of his claim which would entitle him to relief.” *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957). However, broad, unsupported allegations do not preclude dismissal and do not constitute a cause of action. *Signore v. City of McKeesport*, 680 F. Supp. 200, 203 (W.D. Pa. 1988), *aff’d*, 877 F.2d 54 (3d Cir. 1989).

### IV. DISCUSSION

#### 1. State Defendants’ Motion to Dismiss

Plaintiff argues that Lee purposefully interfered with his medical treatment when he ordered Plaintiff to administrative segregation, and that Lee also violated Plaintiff’s right to due process because the transfer occurred without a hearing. Plaintiff further argues that Williams and Taylor are responsible for Lee’s conduct and therefore liable under the doctrine of *respondeat superior*. State Defendants argue that Plaintiff’s complaint does not set forth sufficient facts to sustain his claim that they acted with deliberate indifference to his medical needs in violation of his Eighth Amendment right to be free from cruel and unusual punishment or to sustain his claim that his due

process rights under the Fourteenth Amendment have been violated.<sup>2</sup> (D.I. 13 at 4.)

In order to state a claim based on lack of adequate medical care, a prisoner must allege acts or omissions sufficiently harmful to evidence deliberate indifference to serious medical needs. See *Estelle v. Gamble*, 429 U.S. 97, 104 (1976). To show “deliberate indifference,” a plaintiff must demonstrate a sufficiently culpable state of mind on the part of the defendant. See, e.g., *Farmer v. Brennan*, 511 U.S. 825, 828 (1994). The plaintiff must also show personal involvement by the defendant. *Rode v. Dellarciprete*, 845 F.2d 1195, 1207 (3d Cir. 1988); see also *Monell v. Dep’t of Social Services*, 436 U.S. 658, 694 (1979) (*respondeat superior* may not be used in a § 1983 claim).

The basis of Plaintiff’s Eighth Amendment claim against Lee is that, as a result of Plaintiff’s transfer to administrative segregation, Plaintiff did not receive his medication on August 4, 2001. This is not an act or omission that is sufficiently harmful to prove deliberate indifference to Plaintiff’s medical needs. Plaintiff has not alleged any facts to prove that Lee purposefully withheld Plaintiff’s medication; rather, Plaintiff’s complaint reflects that the entire isolation ward was locked down for security reasons on August 4, 2001, which is why Plaintiff did not receive his medication on that day. These facts cannot support a viable cause of action under the Eighth Amendment for inadequate medical care, and Plaintiff’s claims against Lee under the Eighth Amendment will be

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<sup>2</sup>Plaintiff states that, from June 19, 2001 to July 3, 2001, and from July 10, 2001 to the time he filed his complaint on September 28, 2001, he was a pre-trial detainee. (D.I. 2 ¶ 3.) However, medical issues for pre-trial detainees are controlled by the same “deliberate indifference” standard that applies to sentenced inmates. See *Estelle v. Gamble*, 429 U.S. 97, 104 (1976); *Boring v. Kozakiewicz*, 833 F.2d 468, 472 (3d Cir. 1987), *cert. denied*, 485 U.S. 991 (1988).

dismissed.

Plaintiff claims that his Fourteenth Amendment right to due process was violated when Lee transferred him to administrative segregation without a hearing. In order to prove a violation of the Due Process Clause, Plaintiff must show that (1) a constitutionally protected liberty or property interest is at issue and (2) if so, that the state did not give him notice or an opportunity to be heard prior to depriving him of that protected interest. *Board of Regents v. Roth*, 408 U.S. 564, 569 (1972). Under the Due Process Clause, a prisoner does not have a liberty interest in remaining in the general prison population,<sup>3</sup> see *McKune v. Lile*, 536 U.S. 24, 33 (2002) (citation omitted), and, in this case, Lee's decision to transfer Plaintiff to administrative segregation was reasonably related to the goal of maintaining institutional security, given Plaintiff's escape attempt on July 18, 2001, see *Turner v. Safley*, 482 U.S. 78, 89 (1987); *O'Lone v. Estate of Shabazz*, 482 U.S. 342, 348 (1987). Because Plaintiff does not have a constitutionally protected liberty interest at issue, his claims against Lee under the Fourteenth Amendment will be dismissed.

As to Taylor and Williams, the law is clear that the doctrine of *respondeat superior* is inapplicable to claims brought under 42 U.S.C. § 1983. *Monell*, 436 U.S. at 694. Plaintiff has not alleged any affirmative conduct on the part of Taylor and Williams that would subject them to liability, and therefore all of Plaintiff's claims against them will be dismissed. *Id.*; see also *Rode v. Dellarciprete*, 845 F.2d 1195, 1207 (3d Cir. 1988).

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<sup>3</sup>Nor does Delaware state law create a liberty interest in a prisoner remaining in the general prison population. *Brown v. Cunningham*, 730 F. Supp. 612, 614 (D. Del. 1990) (discussing statutory provision 11 Del. C. § 6535 regarding placement of Delaware prisoners in segregation).

## 2. CMS's Motion to Dismiss

Plaintiff argues that CMS failed to supply adequate personnel and professional staff and services to efficiently meet his medical needs and to respond to his requests for medication between July 10, 2001 and July 18, 2001. Plaintiff also claims that CMS breached its duty of care by failing to provide medical care for him when he was released from the MPCJF on July 3, 2001. Finally, plaintiff argues that CMS is liable for the actions of its employees under the doctrine of *respondeat superior*.

As to CMS, private corporations that provide medical services at prisons cannot simply be held liable under a theory of *respondeat superior* without a showing of any personal involvement. *Rode*, 845 F.2d at 1207, *Swan v. Daniels*, 923 F. Supp. 626, 633 (D. Del. 1995). Personal involvement is shown through allegations of personal direction or of actual knowledge and acquiescence of an employee's actions by someone of authority within a corporation. *Id.* Clyne has failed to allege any personal involvement by CMS, in the form of personal direction or of actual knowledge and acquiescence, concerning his alleged inadequate medical treatment. Finding no connection between CMS and Clyne's complaint, CMS's Motion to Dismiss will be granted.

As all of Plaintiff's federal claims against State Defendants and CMS have been dismissed, I decline to exercise supplemental jurisdiction over Plaintiff's state law claims. See *Borough of West Mifflin v. Lancaster*, 45 F.3d 780, 788 (3d Cir. 1995).

## V. CONCLUSION

For the reasons set forth, the State Defendants' Motion to Dismiss (D.I. 13) will be granted and CMS's Motion to Dismiss will be granted (D.I. 26). An appropriate order will issue.

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CORRECTIONAL MEDICAL	)	
SERVICES, ET AL.,	)	
	)	
Defendants.	)	

**ORDER**

For the reasons set forth in the Memorandum Opinion issued today, it is hereby ORDERED that the Motion to Dismiss filed by defendants Bradley A. Lee, Raphael Williams, and Stanley Taylor (D.I. 13) is GRANTED and the Motion to Dismiss filed by defendant Correctional Medical Services (D.I. 26) is GRANTED.

Kent A. Jordan  
UNITED STATES DISTRICT JUDGE

Wilmington, Delaware  
March 8, 2004