

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

AMENDED COMPLAINT

Plaintiff, by counsel and pursuant to Federal Rule of Civil Procedure 15, files this amended complaint and alleges as follows:

1. This is a civil action arising under 42 U.S.C. § 1983. The jurisdiction of this Court is conferred by 28 U.S.C. §§ 1331 and 1337.

2. Plaintiff Larry Dubose is a resident of the Northern District of Illinois.

3. Plaintiff is not currently confined in any jail, prison, or other correctional facility and was not so confined on the date the original complaint was filed.

4. John Hallinan was at all relevant times a Mental Health Specialist employed by defendant Cook County at the Cook County Jail. Hallinan is sued in his individual capacity.

5. Dr. David Kelner was at all relevant times a physician employed by defendant Cook County as the Chief of Psychiatry at Cermak Health Services. Dr. Kelner is sued in his individual capacity.

6. Defendant Cook County is an Illinois municipal corporation. Plaintiff seeks to impose liability on the County under 42 U.S.C. § 1983 for injuries he incurred because of a widespread practice described below and under the doctrine of *respondeat superior* for a state law tort committed by employees of the County.

7. Plaintiff entered the Cook County Jail as a pretrial detainee on January 11, 2018.

8. At the time he entered the Jail, plaintiff was suffering from serious medical condition for which he was taking prescription medications.

9. On January 11, 2018, an official policy at the Jail required that within 24 hours of a detainee's booking at the Jail, a Qualified Medical Professional or Qualified Mental Health Professional, with appropriate prescribing authority, shall decide whether to continue the same or comparable medication that the detainee reports having been prescribed for a serious medical and mental health need

10. The Jail adopted the official policy described in Paragraph 9 to discharge its constitutional duty to provide medical care to persons held at the Cook County Jail.

11. As explained below with greater specificity, at a date on or after August 31, 2013, the Jail stopped implementing the official policy described in Paragraph 9 and thereby deprived plaintiff and others similarly situated of their constitutional right to health care while held in custody as a pretrial detainee.

12. Defendant Hallinan interviewed plaintiff at about 5:50 p.m. on January 11, 2018 during the intake process.

13. Defendant Hallinan learned the following:

- a. Plaintiff had been detained at the Cook County Jail in July of 2015 and had been prescribed medication for a serious health need;
- b. Plaintiff had continued to receive prescription medication for the same serious health need following his release from the Cook County Jail in 2015;
- c. Plaintiff was being treated by a physician, whose name and organization affiliation plaintiff related to Hallinan, for the same serious health need;

- d. Plaintiff had been admitted to a hospital two weeks before his admission to the Cook County Jail for treatment of the same serious health need; and
- e. Plaintiff had been treated in a hospital emergency room the day before his admission to the Cook County Jail to obtain medication for his serious health need.

14. Defendant Hallinan had the power to refer plaintiff to a Qualified Medical Professional or a Qualified Mental Health Professional, with appropriate prescribing authority, who would decide whether to continue plaintiff's medications.

15. Defendant Hallinan acted unreasonably when he ignored the information he had obtained about plaintiff, listed above in Paragraphs 13(a)-(e), and failed to take any action that would have caused plaintiff to receive his previously prescribed medication.

16. Defendant Hallinan acted pursuant to a widespread practice at the Cook County Jail of disregarding the official policy described in Paragraph 9 and thereby failed to provide plaintiff with medication that had previously been prescribed for a serious health need.

17. At all relevant times, defendant Kelner was the person to whom defendant Cook County had delegated the duty of implementing the official policy described in Paragraph 9.

18. At all relevant times, defendant Kelner knew that the Jail could not implement the official policy described in Paragraph 9 unless a psychiatrist was assigned to work in the intake process.

19. A psychiatrist was not assigned to work in the intake process when plaintiff entered the Jail on January 11, 2018.

20. Had a psychiatrist been assigned to the intake process on January 11, 2018, the psychiatrist would have examined plaintiff and provided him with the previously prescribed medication,

21. Defendant Kelner knew that a psychiatrist was not assigned to the intake procedure on January 11, 2018 and other days, and defendant Kelner knew that the Jail was not implementing the official policy described in Paragraph 9.

22. Defendant Kelner had the power in his capacity as Chief of Psychiatry to require a psychiatrist to be assigned to the intake procedure on January 11, 2018 and other days.

23. Defendant Kelner turned a blind eye to the widespread practice of disregarding the official policy described in Paragraph 9.

24. Defendant Kelner sought to hide the widespread practice of disregarding the official policy described in Paragraph 9 by permitting defendant Hallinan and other non-physicians to enter, in the electronic medical records, orders purportedly issued by Dr. Kelner that made it falsely appear that plaintiff and other similarly situated incoming detainees had been examined by a psychiatrist.

25. Plaintiff submitted grievances on January 12, 2018 and January 15, 2018, complaining about the pain and suffering he was experiencing because of the discontinuation of his previously prescribed medication.

26. As a result of the above described unreasonable conduct of defendants Hallinan and Dr. Kelner and the above described widespread practice, plaintiff continued to experience the pain and suffering caused by discontinuation of the previously prescribed medication until November 18, 2019, when he was seen by a physician who prescribed plaintiff the medication he required.

27. As a result of the foregoing, plaintiff was deprived by all defendants of rights secured by the Constitution of the United States.

28. As a supplemental state law claim against defendant Cook County only: as a result of the foregoing, plaintiff was subjected to healing arts malpractice under Illinois law.

29. Plaintiff will submit the documents specified in Section 2-622 of the Illinois Code of Civil Procedure as may be required by *Young v. United States*, 942 F.3d 347 (7th Cir. 2019), *petition for writ of certiorari filed* May 30, 2020, No. 19-8587.

30. Plaintiff hereby demands trial by jury.

Wherefore plaintiff requests that judgment be entered against all defendants for appropriate compensatory damages and against defendants Hallinan and Kelner for appropriate punitive damages. Plaintiff also requests that the Court award reasonable fees and costs.

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