

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

JOSEPH KEELING,
Plaintiff,
v.
SHERIFF OF LAKE COUNTY, IL, and
LAKE COUNTY, IL,
Defendants.

23 CV 3442
Judge Steven C. Seeger
Magistrate Judge Young B. Kim

**RESPONSE UNDER LR 56.1(c)(2) TO THE PLAINTIFF'S
STATEMENT OF ADDITIONAL FACTS**

The Defendants captioned above respond under LR 56.1(c)(2) to the Plaintiff's statement of additional facts as follows:

1. The plaintiff Joseph Keeling has a history of recurrent hypertensive crisis associated with tachycardia such as frequent fainting and falls during hypertensive crisis. (Answer to Second Amended Complaint, admitting paragraph 6, ECF No. 42 at 10.)

Response: Admit.

2. Tachycardia is a blood-pressure condition that substantially impairs the major life activity of circulatory function and is a disability under the ADA, 42 U.S.C. § 12102(1). *Gogos v. AMS Mechanical Systems, Inc.*, 737 F.3d 1170 (7th Cir. 2013).

Response: Admit.

3. Following his arrival at the Lake County Jail on June 8, 2022, plaintiff spoke with a nurse; the nurse measured plaintiff's blood pressure and recorded plaintiff's medical history. (Keeling Dep. 72:17-20, 74:1-12, ECF No. 42 at 32.)

Response: Admit.

4. The nurse memorialized in jail records that plaintiff had a “history of recurrent hypertensive crisis” which required a “treatment/accommodation/ housing order” to house plaintiff in a lower bunk on a lower tier. (Defendants Exhibit 3, LC-00185, ECF No. 42 at 53.)

Response: Admit.

5. Plaintiff was placed in a holding cell after the medical interview, where he waited to see a judge the next morning. (Keeling Dep. 76:20-77:14, ECF No. 42 at 33.)

Response: Admit.

6. Following his video appearance before the judge, plaintiff was returned to a holding cell to await transfer to McHenry County for an appearance in a child support matter. (Keeling Dep. 79:17-80:8, ECF No. 42 at 34.)

Response: Admit.

7. Thereafter, a correctional officer escorted plaintiff from the holding cell (Keeling Dep. 80:9-25, ECF No. 42 at 34) to the “cell block” (Keeling Dep. 81:1-11, ECF No. 42 at 35), where a different officer assigned plaintiff to the upper bunk in a cell. (Keeling Dep. 81:15-82:6, ECF No. 42 at 35.)

Response: Deny that “a different officer” in the “cell block” assigned Keeling to an upper bunk. As Deputy Chief Kalfas explained in admitted fact #11 (Pl’s Statement of Facts Response, ECF No. 47 at PageID 261), officers in the classification office assign cell and bed locations, not pod officers (i.e. officers supervising the housing units). Keeling arrived to the “cell block” having already been assigned a cell and bed.

8. Plaintiff told the officer that he required a lower bunk because of his medical history; the officer responded that “this is not a hotel.” (Keeling Dep. 82:1-6, ECF No. 42 at 35.)

Response: Denied on the basis that although Plaintiff can supply a foundation for his own actions, the officer's response is hearsay to which the Plaintiff is incapable of laying a foundation for the statement, having not identified any such person. (See also the Defendant's Statement of Facts at 23, to which the Plaintiff failed to respond, but incorporated his testimony.)

9. Plaintiff followed the officer's orders, entered the cell and climbed to the top bunk. (Keeling Dep. 83:14-17, ECF No. 42 at PageID 168.)

Response: Deny that that officer "ordered" Keeling to climb "to the top bunk." Keeling's testimony cited above states as follows:

14 Q. What happened after that?

A. I listened and went into the cell.

Q. Did you get up on the top bunk?

A. Eventually, yes.

Q. You say eventually. How much after that?

A. I don't have any recollection. That's where everything basically stops. All I can recall is knowing that I'm struggling to get up. I eventually got up and, of course, as soon as I had gotten up, they put the trays of food through the door and the person that was on the bottom says, hey, so you don't have to struggle getting up and down again, let me just hand you the tray and from there I don't have any other recollection other than what I've stated already.

(Keeling Dep. 83:14-84:6, ECF No. 42 at PageID 168.)

10. At 4:43 p.m. on June 9, 2022 (ECF No. 42 at 57), after he had climbed to the upper bunk, plaintiff had a seizure which caused him to incur personal injuries from biting his tongue and experiencing pain "like every bone all of the left side of my face," and feeling "like my head was going to explode." (Keeling Dep. 87:16-88:3, ECF No. 42 at 36.)

Response: Admit that Keeling so testified.

11. Plaintiff was evacuated by ambulance to the Vista Medical Center East on June 9, 2022 from the Lake County Jail; the Medical Center's records show that plaintiff arrived at 5:33 p.m. (Plaintiff's Exhibit 1 at 2.)

Response: Admit.

12. The jail personnel who accompanied plaintiff to the Vista Medical Center informed the center that plaintiff had a history of tachycardia, that the seizure had lasted three to five minutes, during which plaintiff turned blue. (Plaintiff's Exhibit 1 at 2.)

Response: The cited record makes clear that "officers" relayed the following information:

"Per officer seizure lasted 3 to 5 minutes and patient turned blue. **Police officer** says patient was eating dinner when he had this episode."

Who communicated the plaintiff's medical history is unclear, because information was also clearly coming from the plaintiff himself:

"Patient with a history of tachycardia and on propranolol. **Patient admits** last use of propranolol was 2 days ago. . . ." (Pl's Exh. 1 at 2, ECF No. 48 at PageID 272.)

13. The Vista Medical Center discharged plaintiff at 8:07 p.m. on June 9, 2022 after physicians there reviewed blood tests, x-rays, and a CT Brain/Head scan. (Plaintiff's Exhibit 1.)

Response: Admit.

14. The intake procedure at the Lake County Jail was described by Deputy Chief Kalfas as follows: [O]nce somebody comes into custody, they will be booked in by one of the booking **information officers**, enter it into the Jail Management System. They will do fingerprints and pictures, and within four hours of coming into custody, a medical and mental intake will be completed by one of our contracted medical staff members. At this time, Well Path, where they

will do a detailed medical and mental health evaluation of them, and if there is anything that's special that needs to be considered in where they are housed, that information will then be passed onto the class officers. Once they are remanded to our custody after court, they will be moved to One East, which is a classification pod. They will spend a few days down there while the classification officers do their interviews, assemble all of the information, and then based upon all of that information, they will find them a more permanent housing location somewhere in the facility. (Kalfas Dep. 23:23-24:21, ECF No. 42 at 64.)

Response: Admit. For greater context, Kalfas further testified that a special needs determination can occur over time, with multiple forms being generated:

BY MR. RICE:

23 Q. If there are multiple Special Needs Forms, as we have just seen, you identified actually a bunch of exhibits. · Many of them are copies, but I think we can agree that it looks like there were three different Special Needs Forms filled out, and two of them were prior to Keeling going into the classification pod; do you understand that?

A. Yes.

Q. What does the correctional staff do if there are multiple Special Needs Forms?

A. When they basing a decision on where to house somebody, they will go with the most recent or the most current Special Needs Form and make their decision based on that.

Q. And based on that metric, it appears that the most current one prior to him being moved to the classification pod –

A. Exhibit 9.

Q. Is Exhibit 9, Page 4 of 4?

A. Yes.

Q. And that was the Special Needs Form filled out by Gina Almas, A-1-m-a-s?

A. Yes.

Q. So the classification officer blankly relied on this Special Needs Form?

A. This being the most recent one, yes.

MR. RICE: Nothing more. (Kalfas Dep. 33:22–35:2, ECF No. 42 at PageID 200.)

15. Defendants did not disclose Richard Clouse, Chief of the Lake County Jail, in their Rule 26 disclosures. (Plaintiff's Exhibit 2.)

Response: Admit.

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Respectfully submitted,
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