

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:23-CV-00501-KLM
(To be supplied by the court)

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO
JUL 07 2023
JEFFREY P. COLWELL
CLERK

Gene Galvan, Plaintiff

v.

Jury Trial requested:
(please check one)

☒ Yes ☐ No

Weld county Jail Correctional Staff

Weld county Jail Medical Staff

Weld county Jail Mental Health Staff

Correction officer Palanco, Defendant(s). (see Attached)

(List each named defendant on a separate line. If you cannot fit the names of all defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Section B. Do not include addresses here.)

PRISONER COMPLAINT

NOTICE

Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should not contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include only: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Plaintiff need not send exhibits, affidavits, grievances, witness statements, or any other materials to the Clerk's Office with this complaint.

A. PLAINTIFF INFORMATION

You must notify the court of any changes to your address where case-related papers may be served by filing a notice of change of address. Failure to keep a current address on file with the court may result in dismissal of your case.

Gene Galvan #761 weld county Jail 2110 0th St. Greeley CO.
(Name, prisoner identification number, and complete mailing address) 80631

(Other names by which you have been known)

Indicate whether you are a prisoner or other confined person as follows: (check one)

- ☒ Pretrial detainee
☐ Civilly committed detainee
☐ Immigration detainee
☐ Convicted and sentenced state prisoner
☐ Convicted and sentenced federal prisoner
☐ Other: (Please explain) _____

B. DEFENDANT(S) INFORMATION

Please list the following information for each defendant listed in the caption of the complaint. If more space is needed, use extra paper to provide the information requested. The additional pages regarding defendants should be labeled "B. DEFENDANT(S) INFORMATION."

Defendant 1: Weld County Jail staff, 2110 0th Street, Greeley, CO 80631
(Name, job title, and complete mailing address)

At the time the claim(s) in this complaint arose, was this defendant acting under color of state or federal law? ☒ Yes ☐ No (check one). Briefly explain:

All staff that was on duty during the time my 8th
Amendment rights were violated.

Defendant 1 is being sued in his/her ☒ individual and/or ☒ official capacity.

Defendant 2

Weld County Jail Medical Staff, 2110 O Street, Greeley, CO 80631
(Name, job title, and complete mailing address)

At the time the claim(s) in this complaint arose, was this defendant acting under color of state or federal law? ☒ Yes ☐ No (check one). Briefly explain:

All staff that was on duty as medical staff during the time my 8th Amendment rights were violated

Defendant 2 is being sued in his/her ☒ individual and/or ☒ official capacity.

Defendant 3

Officer Polanco, Weld County Jail, 2110 O Street, Greeley, CO 80631
(Name, job title, and complete mailing address)

At the time the claim(s) in this complaint arose, was this defendant acting under color of state or federal law? ☒ Yes ☒ No (check one). Briefly explain:

Yes, and exceeded their official capacity by showing extreme indifference to plaintiff

Defendant 3 is being sued in his/her ☒ individual and/or ☒ official capacity.

C. JURISDICTION

Indicate the federal legal basis for your claim(s): (check all that apply)

☒ State/Local Official (42 U.S.C. § 1983)

☐ Federal Official

As to the federal official, are you seeking:

☐ Money damages pursuant to *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971)

☐ Declaratory/Injunctive relief pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1361, or 28 U.S.C. § 2201

☐ Other: (please identify) _____

"B. Defendants information"

Defendent 4

Officer Abebe 2110 "O" street Greeley Co.
80631

At the time the claim(s) in this
Complaint arose was this defendant acting
under color of state or federal Law?

X Yes No

Yes at exceeded their official capacity
by showing extreme indifference to
Plaintiff.

Defendent 4 is being sued in his/her

X individual and/or X Official capacity.

Defendent 5

Officer Martinez 2110 "O" street Greeley Co.
80631

At the time the claim(s) in this complaint
arose was this defendant acting under color
of State or federal law?

X Yes No

Yes at exceeded their official capacity
by showing extreme indifference to
Plaintiff.

Defendent 5 is being sued in his/her

X individual and/or X Official capacity

"B. Defendants Information"

Defendant 6

Officer Sanata 2110 "O" Street Greeley
CO, 80631

At the time the claim(s) in this
complaint arose was this defendant acting
under color of state or federal law?

X Yes No

Yes at exceeded the official capacity
by showing extreme indifference to
Plaintiff

Defendant 6 is being sued in his/her

X individual and/or X official capacity

"D. STATEMENT OF CLAIMS."

I. CLAIM ONE. Cruel and Unjust Punishment

On December 16, 2022 Defendant's placed Plaintiff in a cell with no mattress, left to attempt to sleep on only a metal bed frame. Plaintiff was placed on 22 hours a day lock down. Plaintiff was in extreme pain known by all staff that came in contact with him. Plaintiff was sleep deprived due to the extreme pain Defendants inflicted on him due to the conditions Defendants created. Plaintiff suffered extreme physical and emotional distress due to the actions by all Defendants. This violated the Plaintiff's 8th Amendment rights, and placed me at extreme risk.

II. Claim TWO, Cruel and Unjust Punishment

On December 19, 2022 the Doctor explained to Defendants that I was to receive additional pillows to keep my leg elevated, so the swelling can be relieved which would then enable surgery. Defendants again violated Plaintiff's safety and again violated Plaintiff's 8th Amendment rights by not following doctors orders to provide Plaintiff additional pillows. Plaintiff again was deprived of basic medical Treatment. Plaintiff was unable to keep his leg elevated, Plaintiff's leg straight, Plaintiff was also not able to properly use the restroom and is still suffering from leg and knee pain as a result of this mistreatment.

D. STATEMENT OF CLAIMS

III. CLAIM THREE, Cruel and Unjust Punishment

Defendants did not consult Doctor at Northern Colorado Medical Center. On December 29th after Plaintiff was returned to Weld County Jail, Defendants prescribed medication that gave Plaintiff an allergic reaction resulting in Plaintiff's airway swelling shut. Five (5) hours later Plaintiff was finally rushed back to Northern Colorado Medical Center. This further action or lack thereof violated Plaintiff's 8th Amendment Rights again placing Plaintiff health and safety at an extreme risk of dying. This ~~still~~ still provides Plaintiff with nightmares and mental anguish.

IV. CLAIM FOUR, Cruel and Unjust Punishment

Defendant Officer Polanco took Plaintiff to a follow-up appointment for ~~any~~ ^{Plaintiff's} post-op surgery. Rather than Officer Polanco utilizing a handicapped accessible spot to park his squad car, he went above and beyond to cause Plaintiff discomfort and had Plaintiff climb out into some landscape rocks which caused Plaintiff to fall putting undue pressure on his leg which was just operated on. This has caused further pain and ~~discomfort~~ ^{damage} to Plaintiff's leg. This has violated Plaintiff's 8th Amendment Rights.

E. PREVIOUS LAWSUITS

Have you ever filed a lawsuit, other than this lawsuit, in any federal or state court while you were incarcerated? ___ Yes ☒ No (check one).

If your answer is "Yes," complete this section of the form. If you have filed more than one previous lawsuit, use additional paper to provide the requested information for each previous lawsuit. Please indicate that additional paper is attached and label the additional pages regarding previous lawsuits as "E. PREVIOUS LAWSUITS."

Name(s) of defendant(s): _____

Docket number and court: _____

Claims raised: _____

Disposition: (is the case still pending?
has it been dismissed?; was relief granted?) _____

Reasons for dismissal, if dismissed: _____

Result on appeal, if appealed: _____

F. ADMINISTRATIVE REMEDIES

WARNING: Prisoners must exhaust administrative remedies before filing an action in federal court regarding prison conditions. See 42 U.S.C. § 1997e(a). Your case may be dismissed or judgment entered against you if you have not exhausted administrative remedies.

Is there a formal grievance procedure at the institution in which you are confined?

☒ Yes ___ No (check one)

Did you exhaust administrative remedies?

___ Yes ☒ No (check one)

My grievances wouldn't get answered,
they would get lost, thrown away or
never logged in. 5

G. REQUEST FOR RELIEF

State the relief you are requesting or what you want the court to do. If additional space is needed to identify the relief you are requesting, use extra paper to request relief. Please indicate that additional paper is attached and label the additional pages regarding relief as "G. REQUEST FOR RELIEF."

H. PLAINTIFF'S SIGNATURE

I declare under penalty of perjury that I am the plaintiff in this action, that I have read this complaint, and that the information in this complaint is true and correct. *See* 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Under Federal Rule of Civil Procedure 11, by signing below, I also certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending or modifying existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

Gene Galwan
(Plaintiff's signature)

6-26-2023
(Date)

(Revised November 2022)

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G. Request for Relief

Plaintiff prays this court grants relief how it sees fit and/or appropriate in this matter which shall include the following:

A.) Additional Medical and sensitivity training for all Jail staff so they may identify when what they are doing creates extreme issues for inmates,

B.) Additional Medical Training for all medical staff or hire better trained individuals;

C.) For those staff members that were actually named as Defendants, they should lose their jobs as they showed extreme indifference and went above and beyond their official capacity to cause extreme pain and suffering for the Plaintiff;

D.) A monetary settlement in the amount of "x" with Treble Damages as the extreme indifference forced upon the Plaintiff has left plaintiff with Chronic ongoing life long suffering and pain. So this monetary settlement should be a best guess as to ongoing medical treatment payments, and should include monthly payments to replace wages lost constituting ~~future~~ future and ongoing damages.

Certificate of Service

I hereby certify that a copy of the Prisoner's complaint was mailed to the following via USPS, On _____, 2023.

1.) Weld County Jail Staff, et al

2110 O Street

Greeley, CO 80631

2.) Officer Palanco

2110 O Street

Greeley, CO 80631

6.) Officer Sanata

2110 "O" Street

Greeley, CO 80631

3.) Clerk of the Court

Alfred A. Arroy U.S. Court house

901 14th Street, Room A105

Denver, CO 80294 - 3589

4.) Officer Abebe

2110 O Street

Greeley, CO 80631

5.) Officer Martinez

2110 O Street

Greeley, CO 80631

4. If you are proceeding pursuant to 28 U.S.C. § 1915 and the motion, affidavit, and certified copy of your trust fund account statement (or institutional equivalent) are in proper form, you must pay the full \$350.00 filing fee in monthly installments. See 28 U.S.C. § 1915(b)(1). The Court will enter an order directing your custodian to calculate and disburse funds from you inmate trust fund account or institutional equivalent in the amounts specified by 28 U.S.C. § 1915(b) until the full \$350.00 filing fee is paid.

The Complaint

1. Each named defendant must be listed in the caption of the complaint, one defendant per line. If there is more than one defendant, you should indicate clearly in the body of the complaint which actions are attributable to each defendant.

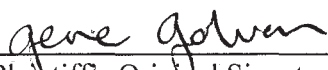
2. You must provide the Court with an original complaint. You should keep a copy of the complaint for your own records. The Court will not provide a copy for you.

3. When your complaint is completed, it should be mailed with the filing fee or motion for leave to proceed pursuant to 28 U.S.C. § 1915 to the Clerk of the United States District Court at the following address:

Clerk of the Court
Alfred A. Arraj United States Courthouse
901 19th Street, Room A105
Denver, CO 80294-3589

4. Each original document (except the original complaint) must include a certificate stating the date a copy of the document was mailed to the opposing party or his, her, or its attorney and the address to which it was mailed. Any document that fails to include a certificate of service may be disregarded by the Court or returned. An example of a certificate of service is:

I hereby certify that a copy of the foregoing pleading/document was mailed to
_____ (defendant(s) or counsel for defendant(s))
at _____ (address) on _____, 20____.



Plaintiff's Original Signature

5. The United States district judges, the United States magistrate judges, the Clerk of the Court, and deputy clerks are officers of the Court and are prohibited from giving legal advice. Legal questions should be directed to an attorney.

Inmate Name Gene Galvan
Weld County Jail
2110 O Street
Greeley, CO 80631

LEGAL



Clerk of the Court
Alfred A. Arraj
United States Court House
901 19th Street, Room A105
Denver, CO
80294-3589

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