

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 24-1230

CASEY DOOLEY,
Appellant

v.

JOHN E. WETZEL; RICHARD A. GOSS; JESSICA COUSINS;
MR. SISTO; MS. MCMANNON

On Appeal from the United States District Court
for the Middle District of Pennsylvania
(D.C. Civil Action No. 3:18-cv-01310)
District Judge: Honorable Julia K. Munley

Submitted Pursuant to Third Circuit LAR 34.1(a)
April 11, 2025

Before: SHWARTZ, MONTGOMERY-REEVES, and SCIRICA, Circuit Judges

(Opinion filed April 28, 2025)

OPINION*

PER CURIAM

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

Appellant Casey Dooley appeals from an order of the District Court dismissing his second amended civil rights complaint. For the following reasons, we will affirm in part and vacate in part the District Court's judgment.

In 2002, in the Philadelphia Court of Common Pleas, Dooley was found guilty but mentally ill (GBMI) of five counts of attempted murder and related offenses. In 2018, he filed a complaint pursuant to 42 U.S.C. 1983 against various defendants, including the Secretary of the Pennsylvania Department of Corrections (DOC), John E. Wetzel and DOC Official Richard Goss.¹ Dooley alleged, inter alia, that defendants violated his Eighth Amendment rights by refusing to acknowledge the GBMI verdict and classify him as a D Stability code inmate, thereby depriving him of necessary mental health resources that come with that classification. The District Court dismissed the complaint as frivolous and for failure to state a claim for relief under 28 U.S.C. §§ 1915A, 1915(e)(2), and 42 U.S.C. § 1997e(c).

On appeal, we determined that the complaint was not frivolous, as it alleged a plausible theory of an Eighth Amendment claim for deliberate indifference to Dooley's serious medical needs. See Dooley v. Wetzel, 957 F.3d 366, 378 (3d Cir. 2020). We also concluded that, while the complaint failed to allege sufficient facts to support that claim, the District Court erred in dismissing the complaint without leave to amend. Id. at 376. In particular, we noted that Dooley could state a claim for relief if he alleged that the serious mental health issues he was experiencing were diagnosed, and if he alleged "facts

¹ The complaint was filed in state court, and defendants removed the matter to federal court pursuant to 28 U.S.C. § 1441(a).

regarding the officials' actions or inactions to show deliberate indifference.” Id. We therefore vacated the judgment and remanded for further proceedings.

On remand, the District Court dismissed the complaint without prejudice and with leave to amend. Dooley amended his complaint to, inter alia, add Jessica Cousins, a psychiatric mental health nurse practitioner employed at SCI-Huntingdon. The District Court dismissed without prejudice the claims against Cousins for failure to state a claim for relief, but provided Dooley leave to file a second amended complaint “inclusive of all claims against all Defendants.” ECF No. 106. Dooley amended the complaint again, naming as defendants Timothy Sisto and Melissa McMahon,² employees in the mental health department at SCI-Huntingdon, in addition to Wetzel, Cousins, and Goss. A magistrate judge issued a report and recommendation (R&R) recommending dismissing the operative second amended complaint (hereinafter “the complaint”) without leave to amend for failure to state a claim for relief. Over Dooley’s objections, the District Court adopted the R&R and dismissed the complaint with prejudice. Dooley appealed.

We have jurisdiction pursuant to 28 U.S.C. § 1291. We exercise plenary review over the District Court's dismissal of the second amended complaint. See Tourscher v. McCullough, 184 F.3d 236, 240 (3d Cir. 1999).

Dooley challenges on appeal the dismissal of his Eighth Amendment claims,³ arguing that he had cured the defects which this Court had identified on appeal. To state

² We note that defendant McMahon’s last name is misspelled as McMannon in the caption.

³ Dooley does not challenge the District Court’s dismissal of his procedural and substantive due process claims. Accordingly, review of those claims has been forfeited.

a viable claim for deliberate indifference, Dooley had to allege that the defendants had personal knowledge of a serious medical need and deliberately ignored a substantial risk to his health. See Pearson v. Prison Health Serv., 850 F.3d 526, 534 (3d Cir. 2017). A prison official is deliberately indifferent if she “(1) knows of a prisoner’s need for medical treatment but intentionally refuses to provide it; (2) delays necessary medical treatment based on a non-medical reason; or (3) prevents a prisoner from receiving needed or recommended medical treatment.” Id. The District Court determined that Dooley’s facts “do not place his claims into any of these categories.” ECF No. 142 at 15. It concluded “that there are no allegations . . . plausibly claiming an intentional refusal by defendants to treat plaintiff’s mental health despite knowing of his actual needs.” Id. at 16. For the reasons discussed below, we agree with this conclusion as to all but one defendant.

In his second amended complaint, Dooley provided greater specificity to his allegations that he is being denied treatment for specific mental health issues. He averred that his medical files, which he claimed are available to all of the defendants, document that he was “diagnosed with Schizophrenia, Schizoaffective Disorder, and Major Depression.” Id. at 3. He maintained that he is being treated with Lexapro for his depression, but “he is not being treated at all for his paranoia,” which he assumes is the result of his Schizophrenia and Schizoaffective disorder, and “which make it difficult,

See M.S. by & through Hall v. Susquehanna Twp. Sch. Dist., 969 F.3d 120, 124 n.2 (3d Cir. 2020) (noting that arguments not raised in an opening brief on appeal are forfeited); see also Mala v. Crown Bay Marina, Inc., 704 F.3d 239, 245 (3d Cir. 2013) (noting that pro se litigants “must abide by the same rules that apply to all other litigants”).

when in the mi[d]st of a paranoid episode, to seek help.” Id. at 5. He alleged that when treatment is needed, in the form of wellness checks and medication, “it is not available,” although it would be available if he were on the D Roster. Id. According to the complaint, “[t]he Defendants have left the Plaintiff to fend for himself, when arrest (sic) by paranoid episodes, a major Depression, and suicidal thoughts.” Id. at 6.

The District Court concluded that Dooley failed to “aver[] that he relayed these matters to defendants and then they did not treat his mental health conditions.” ECF No. 142 at 16. We agree with the District Court that, with respect to defendants Wetzel, Goss, Sisto, and McMahon, the complaint does not sufficiently allege that they personally denied or prevented Dooley from obtaining treatment for serious mental health issues. See Baraka v. McGreevey, 481 F.3d 187, 210 (3d Cir. 2007) (noting that defendants in civil rights actions “must have personal involvement in the alleged wrongs to be liable and cannot be held responsible for a constitutional violation which he or she neither participated in nor approved”); see also Rode v. Dellarciprete, 845 F.2d 1195, 1207 (3d Cir. 1988) (noting that “[p]ersonal involvement can be shown through allegations of personal direction or of actual knowledge and acquiescence,” but these allegations “must be made with appropriate particularity”).

Dooley asserted that Wetzel supervised the staff at SCI-Huntingdon, but “liability cannot be predicated solely on the operation of respondeat superior.” Id. Dooley also alleged that each of these defendants failed to acknowledge his GBMI verdict and thereby deprived him of the mental health programs available to D code inmates. He maintained that he had “numerous discussions” with Goss, “numerous contacts with

Sisto, and “asked [McMahon] for assistance,” all specifically about getting placed on the D roster. ECF No. 118 at 9-11. But as this Court noted in the prior appeal, the GBMI finding does not establish a serious medical need, even if it may be relevant to demonstrating one. See Dooley, 957 F.3d at 375 n.4. Because Dooley did not specifically allege that Wetzel, Goss, Sisto, and McMahon were advised of, and disregarded, a serious medical need, the District Court did not err in dismissing the Eighth Amendment claim against them.

Turning to defendant Cousins, she argues on appeal that “Dooley’s claims are entirely based on his belief that a GBMI finding in his criminal case entitles him to receive D-roster status per prison regulations.” Appellee Cousins’s Br. at 14. Not so. As noted, Dooley alleged that he was denied mental health care for certain diagnosed conditions. And his allegations against Cousins are more specific and demonstrate personal involvement. For example, Dooley alleged that Cousins was the “leader on the Psychiatric Review Team,” and, as such, was “responsible for the classification, and placement of inmates on the mental health roster, and had full access to [his] mental health file.” ECF No. 118 at 8. He further alleged that he “was assigned to Defendant Cousin’s caseload for a long period of time.” Id. at 7. And he stated that he informed her of his “mental health issues regarding his[] paranoia, [d]epression, and occasional [s]uicidal thoughts, to no avail, in obtaining needed additional mental health treatment, via placement on the D-roster as a D-stability code inmate.” Id. at 8. When read as a whole, the complaint alleged that Cousins was aware of his mental health conditions and failed to provide treatment, whether or not that involved placement on the D-roster.

We also disagree with the District Court's conclusion that the complaint merely alleged a disagreement with the mental health services provided. In reaching that conclusion, the District Court stated:

Plaintiff also alleges that he is being treated by several mental health professionals on staff and that he has had many conversations with them about his mental health and his roster status. He has also provided exhibits that establish he has an individual recovery plan. Based on these averments and exhibits, plaintiff admits that he has received mental health treatment and medication at SCI-Hungtingdon. . . . [D]efendants are addressing plaintiff's mental health needs with an individualized treatment plan reviewed by a team, prescribing him medication for depression, and frequently discussing his mental health status with him . . .

ECF No. 142 at 14, 17. However, Dooley did not allege that he's being treated by a team of professionals; he stated that he's had *discussions* with Goss, Sisto, and McMahon about the D Roster. And he alleged that he's being treated for his depression, but not for his other conditions or symptoms. Also, the Individual Recovery Plan he attached is from 2014, before the D-Code was instituted; it does not indicate whether he has a current recovery plan. Finally, because the inquiry turns on facts and circumstances specific to each case, whether a defendant's conduct amounts to deliberate indifference has been described as a "classic issue for the fact finder," and thus is not appropriate at the motion-to-dismiss stage. See A.M. ex rel. JMK v. Luzerne Cnty. Juvenile Det. Ctr., 372 F.3d 572, 587-88 (3d Cir. 2004) (citing Armstrong v. Squadrito, 152 F.3d 564, 577 (7th Cir. 1998)).

In sum, the District Court properly dismissed the Eighth Amendment claims against defendants Wetzel, Goss, Sisto, and McMahon for failure to state a claim for relief. And because Dooley was allowed to amend his complaint several times, the District Court properly dismissed these claims with prejudice and without leave to amend. See Mullin v. Balicki, 875 F.3d 140, 149 (3d Cir. 2017) (citing Foman v. Davis, 371 U.S. 178, 182 (1962)). However, when liberally construed, the complaint states a claim for deliberate indifference against defendant Cousins. We will therefore remand for further proceedings on this claim.⁴

Based on the foregoing, we will affirm in part and vacate in part the District Court’s judgment, and remand for further proceedings consistent with this opinion. In so doing, we express no opinion on the merits of the claim against Cousins.⁵

⁴ Dooley also argues that the District Court erred in denying his motion for appointment of counsel. The Magistrate Judge denied the most recent counsel motion, and Dooley did not appeal that ruling to the District Court under 28 U.S.C. § 636. We do not generally review rulings by magistrate judges that litigants have not challenged in the District Court, and we decline to do so here in light of our disposition. See Tabron v. Grace, 6 F.3d 147, 153 n.2 (3d Cir. 1993) (explaining that our review under those circumstances is a matter of discretion). We note that Dooley can renew his counsel motion on remand.

⁵ Dooley’s “Motion to Inform,” which has been construed as a motion to expand the record, is denied. Dooley may wish to renew the motion in the District Court.