

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

Michael Parish, Curtis L. Oats, Leila)	
Khoury, Sean Driscoll, Carla Lofton, Roy)	
Cleaves, Lisa Brown, Dan Taylor, Dean)	
Miller, Kevin Sanders, Stacey Clark, and)	
Charlotte Watson,)	No. 07 CV 4369
)	
<i>Plaintiffs,</i>)	
)	<i>(Judge Kennelly)</i>
-vs-)	
)	
Sheriff of Cook County and Cook County,)	
)	
<i>Defendants.</i>)	

SECOND AMENDED COMPLAINT

Pursuant to leave of Court, plaintiffs file this amended complaint and, by counsel, allege as follows:

1. This is a civil action arising under 42 U.S.C. §1983. Plaintiffs invoke the jurisdiction of the Court pursuant to 28 U.S.C. §1343.
2. Defendants are the Sheriff of Cook County and Cook County, Illinois. Defendant Sheriff is sued in his official capacity only.
3. Defendants have a duty to screen each person processed into the Cook County Jail for medical and mental health problems. Defendants also have a duty to provide care and treatment for any prisoner at the jail who faces a substantial risk of serious harm without such care and treatment.

4. In the two-year period preceding the filing of this complaint, defendants have applied a variety of policies and practices which have caused serious harm to plaintiffs and others similarly situated. These policies and practices include the following:

A. Psychotropic Medication

- a. Persons entering the jail who are receiving anti-psychotic medication and appear to be “normal” are routinely denied these medications.
- b. The decision to discontinue psychotropic medication is made during the intake procedure by a person known as a “psych worker” who is not qualified to prescribe medication.
- c. Defendants have a policy or practice of allowing the “psych worker” to discontinue psychotropic medication based on a brief and cursory interview, without regard to the detainee’s medical history and without consultation with the physician who has prescribed the medication.
- d. After the “psych worker” has refused to allow a detainee to continue to receive psychotropic medication, a detainee must engage in bizarre behavior before he (or she) will receive a psychiatric re-evaluation. A common form of such behavior is to engage in acts of self-mutilation or to attempt suicide.
- e. The same type of unqualified “psych worker” who performed screening at intake also performs the re-evaluation; defendants have

authorized the “psych worker” to refuse to permit the detainee to be seen by a physician.

- f. Defendants appear to have a practice or policy of prohibiting physicians at the jail from prescribing costly anti-psychotic medication and instead encourage or require physicians at the jail to prescribe inexpensive anti-depressants which also function as a sedative, inducing drowsiness.

B. Non-Psychotropic Medication

- a. Persons entering the jail with serious medical problems of an embarrassing or personal nature are not afforded appropriate privacy for disclosure of their medical condition; a detainee’s medical history is taken in a part of the jail known as the “R.C.D.C.,” a converted clothing room where detainees are held in overcrowded animal pens.
- b. Persons entering the jail with serious medical problems which are being treated with medication will not be permitted to continue that treatment, if, in the opinion of a medical technician, the detainee does not require that medication.
- c. Defendants have a policy or practice of allowing the medical technician to discontinue medication based on a brief and cursory interview, without regard to the detainee’s medical history and without consultation with the physician who has prescribed the medication.

- d. Defendants have a policy or practice of permitting the technician to make the decision to discontinue prescribed medication without consultation with a physician.
- e. Defendants have a policy or practice of permitting the technician to make the decision to discontinue prescribed medication when the detainee arrives at the jail by ambulance from a hospital with a recent prescription for medication required to prevent death or serious illness.
- f. Defendants have a policy or practice of permitting the technician to make the decision to discontinue prescribed medication when the detainee arrives at the jail with his (or her) prescribed medication required to prevent death or serious illness.
- g. There is no quick, speedy, or efficient procedure through which a detainee may see a physician after the medical technician has decided to discontinue a detainee's medication.
- h. Defendants appear to have a practice or policy of prohibiting physicians at the jail from prescribing costly medication which had been appropriately prescribed for the detainee before he (or she) was admitted to the jail.
- i. Defendants appear to have a practice or policy of prohibiting physicians at the jail from prescribing appropriate medication for prisoners who enter the jail with medical conditions causing chronic pain.

5. Plaintiffs and many others similarly situated have been injured by defendants' above referred policies. Accordingly, plaintiffs bring this action pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure for all persons confined at the Cook County Jail on and after August 3, 2005 who provided notice that he or she had been taking prescription medication for a serious health need and who was not provided with appropriate medication within 24 hours thereafter.

6. Plaintiffs and the facts concerning the manner in which each has been harmed by defendants' policies and practices are as follows:

Michael Parish

7. Plaintiff Michael Parish was transferred to the jail from the Illinois Department of Corrections ("IDOC") on or about September 27, 2005.

8. Parish received psychotropic medication on a daily basis while confined at the IDOC and arrived at the jail with a two week supply of medication.

9. Parish was interviewed by a "psych worker" upon his admission to the jail; the "psych worker" concluded that Parish should not receive psychotropic medication.

10. Thereafter, Parish made several unsuccessful attempts to overturn the decision of the "psych worker" to discontinue his psychotropic medication.

11. Parish was unable to obtain medication for about nine months until, after an unsuccessful suicide attempt, Parish was seen by a physician who prescribed medication.

12. Parish was released from custody in April of 2006 following his acquittal; thereafter, plaintiff was re-admitted to the jail on a new charge in November of 2007.

13. On his re-admission to the jail in 2007, Parish informed the “psych worker” about his need for psychotropic medication.

14. The “psych worker” did not consider Parish’s medical history at the jail and refused to allow Parish to continue to receive psychotropic medication.

15. Parish thereafter made repeated efforts to obtain the required medication. As a result of these efforts, which included episodes of self-mutilation, Parish was interviewed on three occasions by a “psych worker.” Each time, the “psych worker” concluded that Parish did not require medication and refused to permit Parish to be examined by a physician.

16. Parish was finally able to see a physician in March of 2008, following an unsuccessful suicide attempt, and was prescribed psychotropic medication.

Curtis Oats

17. Plaintiff Curtis Oats was admitted to the jail as a pre-trial detainee on or about August 29, 2006. Oats remained at the jail for about five months until he was released following his acquittal.

18. On admission to the jail, Oats informed the intake personnel that he had been taking anti-psychotic medication, as well as medication for gout and high blood pressure. Oats told the “psych worker” at intake that he had been taking a

particular anti-psychotic medication, that he wanted to continue to take that medication, and that without his medication he experienced paranoia and depression.

19. Oats started to receive high blood pressure medication and gout medication about three days after his admission to the jail.

20. Oats was seen by a physician about three weeks after his admission to the jail. The physician refused to prescribe any anti-psychotic medication and instead prescribed two inexpensive anti-depressants, one of which also functioned as a sedative.

21. Oats first began to receive psychotropic medication in October of 2006.

22. After receiving the psychotropic medication which had been prescribed by the jail physician, Oats became tired and disoriented and felt as if he was in a zombie like state. Oats began to manifest symptoms of paranoia and had difficulty in cooperating with counsel and assisting in his defense.

Leila Khoury

23. Plaintiff Leila Khoury was admitted to the jail on or about November 5, 2005 and remained incarcerated there until January 3, 2006, when she was enlarged on bond.

24. Khoury was admitted to the jail following a psychiatric hospitalization at Christ Hospital.

25. At the direction of a "psych worker," Khoury was not given any psychotropic medication upon her admission to the jail.

26. After Khoury had been at the jail for about a week, she exhibited a variety of abnormal symptoms, including frequent bouts of crying, screaming, fighting, and other hysterical behavior.

27. As a result of the above referred behavior, Khoury was re-evaluated on about three occasions by a “psych worker.” On each occasion, the “psych worker” concluded that Khoury did not require medication and would not be permitted to see a physician.

28. Khoury exhibited abnormal behavior at court appearances, prompting the judge presiding at her criminal case to enter an order directing that Khoury be examined by appropriate medical personnel. Defendants ignored this order.

29. Khoury’s family arranged for Khoury’s treating physician to communicate in writing with the jail to inform them of the various psychotropic medications he had prescribed for Khoury. Defendants ignored this information.

30. In December of 2005, Khoury’s mother spoke with a psychologist at the jail and persuaded him to look into Khoury’s plight. As a result of this intervention, plaintiff was seen by a physician at the jail.

31. The physician refused to prescribe the psychotropic medication which had previously been prescribed for Khoury and instead prescribed an inexpensive anti-anxiety medication.

Sean Driscoll

32. On or about August 18, 2005, plaintiff Sean Driscoll was admitted to the jail as a pre-trial detainee; Driscoll remained at the jail until August 25, 2005, when he was enlarged on bail.

33. On admission to the jail, Driscoll informed a “psych worker” that he had been taking psychotropic medication for severe anxiety disorder.

34. The “psych worker” refused to permit Driscoll to continue on his psychotropic medication.

35. As the direct and proximate result of the wrongful denial of essential medication, Driscoll experienced great pain and suffering.

Carla Lofton

36. Plaintiff Carla Lofton was admitted to the jail in 2006.

37. Lofton informed the “psych worker” on admission to the jail that she had been taking psychotropic medication.

38. The “psych worker” decided that Lofton did not require psychotropic medication and refused to allow Lofton to be seen by a physician.

39. Lofton was unable to see a physician and obtain medication until an unsuccessful suicide attempt.

Roy Cleaves

40. Plaintiff Roy Cleaves was admitted to the jail in April of 2007.

41. Cleaves informed the “psych worker” on admission to the jail of his specific psychiatric diagnosis and of the fact that he had been taking anti-psychotic medication for several years.

42. The “psych worker” concluded that Cleaves did not require any psychotropic medication and refused to allow Cleaves to be seen by a physician.

43. Thereafter, Cleaves made daily requests to see a physician to obtain treatment for symptoms he was experiencing.

44. After several weeks, Cleaves was permitted to see a physician; Cleaves told the physician about his symptoms, medical history, diagnosis, and prescribed medication. The physician told Cleaves that he could not, as a matter of jail policy, prescribe the anti-psychotic medication, but could instead prescribe an anti-depressant.

45. Cleaves was transferred from the jail to the Illinois Department of Corrections in about July of 2007. Cleaves received anti-psychotic medication while confined at the IDOC.

Lisa Brown

46. Plaintiff Lisa Brown was admitted to the jail in April of 2007.

47. Brown informed the “psych worker” on admission to the jail that she had been taking anti-psychotic medication.

48. Brown informed the medical technician on admission to the jail of a serious health problem for which she was taking medication on a daily basis and which was likely to cause her death or serious injury if the medication was discontinued.

49. Brown remained at the jail for about two weeks until the criminal charges against her were dismissed.

50. Brown did not receive any medication during her stay at the jail.

51. While deprived of her anti-psychotic medication, Brown experienced visual and auditory hallucinations, had suicidal thoughts, and exhibited uncontrollable rages.

Dan Taylor

52. Plaintiff Dan Taylor was admitted to the jail in September of 2006.

53. Taylor informed the medical technician on admission to the jail that he had two ruptured disks and a swollen nerve and was taking pain medication. Taylor also told the technician that he had an enlarged prostate and was taking prescription medication for that condition.

54. Taylor did not see a physician at intake to the jail and did not receive any of his prescribed medication.

55. Taylor made frequent complaints following his admission to the jail about his need for pain and prostate medication.

56. Taylor was permitted to see a physician after about five months of frequent complaints. The physician prescribed pain medication and a muscle relaxant and referred plaintiff to a urologist.

57. Taylor did not receive the pain medication until about four weeks after it had been prescribed by the jail physician.

58. Taylor was not permitted to see a urologist for about two months after he had seen the jail physician.

59. After examining Taylor, the urologist concluded that Taylor should continue to receive the medication he had been taking on admission to the jail. Another four weeks elapsed before the jail provided Taylor with this medication.

Dean Miller

60. Plaintiff Dean Miller was admitted to the jail in March of 2008.

61. Miller arrived at the jail by ambulance, following emergency surgery at Christ Hospital.

62. Miller was in the custody of the Sheriff while at Christ Hospital, and spent his final day at the hospital shackled to his bed, pursuant to a policy of the Sheriff.

63. Christ Hospital discharged Miller with instructions that he continue to receive a specific antibiotic and that the dressing on his surgical wound be changed and the wound cleaned several times a day.

64. Miller did not receive any antibiotics whatsoever for two days following his arrival at the jail. Nor did jail personnel clean and change the dressing on plaintiff's surgical wound.

65. A physician prescribed a less effective and less costly antibiotic on Miller's third day at the jail.

66. Miller was enlarged on bond on his third day at the jail and received emergency medical treatment for the infection caused by the jail's refusal to provide appropriate medication.

67. Before his release from the jail, Miller had complained about back pain and advised jail officials that, before his arrest, he had been taking appropriately prescribed prescription pain medication. A physician at the jail refused to provide plaintiff with this medication, advising plaintiff that the jail did not dispense such costly medications.

Kevin Sanders

68. Plaintiff Kevin Sanders was admitted to the jail in December of 2007.

69. Sanders informed the medical technician on admission to the jail that he had recently had a heart valve replaced and was taking a variety of prescription medication relating to his heart problems. Sanders also informed the technician that his prescription medication was with his inventoried property at the jail.

70. The technician refused to permit Sanders to see a physician and Sanders was admitted to the jail without medication.

71. Sanders became ill because the jail had refused to allow him to take his medication.

Stacey Clark

72. Plaintiff Stacey Clark was admitted to the jail in December of 2007.

73. Clark informed the medical technician on admission to the jail that he suffered from acid reflux and was taking prescription medication to control this condition.

74. The technician refused to permit Clark to see a physician and Clark was admitted to the jail without medication.

75. Clark experienced great pain and suffering at the jail because he was not permitted to take appropriate medication for his serious medical condition.

Charlotte Watson

76. Plaintiff Charlotte Watson was admitted to the jail in January of 2008.

77. Watson informed the “psych worker” on admission to the jail that she was taking a prescription anti-depressant.

78. The “psych worker” concluded that Watson did not require an anti-depressant.

79. Watson informed the medical technician on admission to the jail that she was taking specific prescription medication for congestive heart failure, asthma, and hepatitis C.

80. The medical technician referred Watson to a physician, who prescribed medication for congestive heart failure.

81. Watson waited four days after seeing the physician before she receive medication for her congestive heart failure.

82. The physician referred to above refused to allow plaintiff to continue to receive the prescribed medication for asthma and hepatitis C.

83. Watson experienced great pain and suffering and physical injury because she was not permitted to take appropriate medication for her serious medical conditions.

84. Plaintiffs demand trial by jury.

Wherefore plaintiffs request that the Court order that this case may proceed as a class action, that appropriate damages be awarded to the individual plaintiffs and to each unnamed member of the proposed class, and that the Court award costs and fees pursuant to 42 U.S.C. §1988.

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CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of March, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Daniel J. Fahlgren, Ass't State's Atty, 500 Daley Center, Chicago, IL 60602, and I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants: none.

/s/ Kenneth N. Flaxman

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