

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ROBERT MICHAEL MARTIN,)
)
 Plaintiff,)
)
 vs.) No. 1:15-cv-01062-JMS-DKL
)
 BENSON Lt.,)
 et al.)
 Defendants.)

Entry Discussing Amended Complaint and Directing Further Proceedings

Plaintiff Robert Martin brings this action pursuant to 42 U.S.C. § 1983, alleging that he was attacked while he was a pretrial detainee at the Hamilton County Jail. He alleges that the defendants failed to protect him knowing that he was at risk of assault. Mr. Martin filed an Amended Complaint on November 30, 2015. The Amended Complaint is now subject to the screening requirement of 28 U.S.C. § 1915A.

Pursuant to § 1915A, “[a] complaint is subject to dismissal for failure to state a claim if the allegations, taken as true, show that plaintiff is not entitled to relief.” *Jones v. Bock*, 127 S. Ct. 910, 921 (2007). Based on the foregoing screening, certain claims will be dismissed, while other claims will proceed.

First, Mr. Martin requests in the Amended Complaint that the claim against Shawn Williams be dismissed. Accordingly, the **clerk shall terminate** Shawn Williams as a defendant in this action. In addition, all claims brought against the defendants in their official capacities are **dismissed**. Any claim against officers of a county jail in their official capacities are actually claims against the county itself. *Lile v. Tippecanoe Cty. Jail*, 844 F. Supp. 1301, 1307 (N.D. Ind. 1992) (citing *Monell v. Dept. of Social Services*, 436 U.S. 658, 690 (1978)). In order to maintain a claim

against the county, the plaintiff must allege that his constitutional rights were violated as the result of some official custom or policy. *Monell*, 436 U.S. at 694. Because Mr. Martin has not done so, all official capacity claims are **dismissed**.

Next, any claim against Sheriff Bowen is **dismissed** because this defendant is not alleged to have personally participated in the actions alleged in the complaint. *See George v. Smith*, 507 F.3d 605, 609 (7th Cir. Cir. 2007)(“Only persons who cause or participate in the violations are responsible”; an official “who rejects an administrative complaint about a completed act of misconduct does not [cause or contribute to the violation]”).

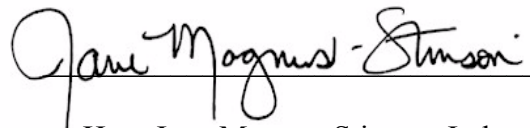
In addition, claims against John Doe defendants are **dismissed** because “it is pointless to include [an] anonymous defendant [] in federal court; this type of placeholder does not open the door to relation back under Fed.R.Civ.P. 15, nor can it otherwise help the plaintiff.” *Wudtke v. Davel*, 128 F.3d 1057, 1060 (7th Cir. 1997) (internal citations omitted). Bringing suit against unnamed, or “John Doe,” defendants in federal court is generally disfavored by the Seventh Circuit. Because Mr. Martin requested that defendant Mental Health Counselor Michaels be changed to Mental Health Counselor John Doe, **the clerk shall terminate** Mental Health Counselor Michaels as a defendant. If through discovery, Mr. Martin is able to learn the name of the unknown defendant, he may seek leave to add a claim against him.

Mr. Martin’s claim against defendants Sgt. Haggard, Sgt. Lacey, Officer Carroll, Lt. Benson and Officer Scherer for failing to protect him from assault shall proceed. The clerk **shall amend** the docket to reflect the spelling of defendant Sgt. Lacy to Lacey, Officer Carrol to Officer Carroll, and Officer Schrider to Officer Scherer.

The defendants have already appeared in this action. They shall have **twenty-one days** from the issuance of this Entry in which to file an answer or other responsive pleading to the Amended Complaint.

IT IS SO ORDERED.

Date: 12/11/2015

A handwritten signature in black ink that reads "Jane Magnus-Stinson". The signature is written in a cursive style and is positioned above a horizontal line.

Hon. Jane Magnus-Stinson, Judge
United States District Court
Southern District of Indiana

Distribution:

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