

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION**

ALVION CASHION,

Plaintiff,

v.

**JACK LEE, in his individual
capacity as superintendent of
Middle River Regional Jail,**

AND

**Dr. MOISES QUIÑONES, in his
individual capacity,**

AND

**MIDDLE RIVER REGIONAL
JAIL AUTHORITY,**

Defendants.

Case no. 5:17cv00004

~~CASE~~ _____

JURY TRIAL DEMANDED

COMPLAINT FOR MONETARY DAMAGES

Plaintiff, Alvion Cashion, files this Complaint pursuant to 42 U.S.C. § 1983 as the statutory vehicle to vindicate his rights under the Eighth Amendment of the U.S. Constitution. While incarcerated at Middle River Regional Jail (“MRRJ”), Defendants showed deliberate indifference to his diagnosed and serious medical

need for his prescribed anti-psychotic medication of which Plaintiff had been taking for over 12 years.

INTRODUCTION

There are serious problems at MRRJ, and Jack Lee is directly implementing a policy that has caused severe harm to the Plaintiff, and other inmates, and undoubtedly will lead to someone's death—if it has not already. Defendant Middle River Regional Jail Authority has vested policy-making authority for Middle River Regional Jail to Defendant Lee. Defendant Lee has, in turn, implemented a dangerous policy of denying inmate requests for prescription medications with respect to current, diagnosed and serious medical conditions.

For example, for twelve years, Plaintiff has been taking prescribed anti-psychotic medication in order to prevent himself from having dangerous psychotic, mental breaks. At the time Mr. Cashion arrived at MRRJ he was taking prescribed Prolixin shots to treat his mental disease. Mr. Cashion told MRRJ medical staff, during his medical intake, that he had a diagnosed mental condition, and that he must take his Prolixin shots to avoid terrible psychotic consequences. MRRJ staff told him that they cannot and will not prescribe him anti-psychotic medication. Nevertheless, Mr. Cashion continued to request his medication. Eventually, after never receiving his medication, Mr. Cashion experienced a psychotic break, during

which he began banging his head against a prison wall and jumping around uncontrollably.

After his psychotic break, Mr. Cashion continued to request MRRJ to prescribe him his anti-psychotic medication and, in response, MRRJ staff continued to tell Mr. Cashion that the jail does not prescribe anti-psychotic medication to inmates. Significantly, no MRRJ official ever made an independent assessment of Mr. Cashion to determine what alternatives (prescription medication or otherwise) could help him deal with his medically diagnosed mental illness. No medical staff attempted to treat Mr. Cashion, and when he persisted with his request for medical attention, MRRJ staff told him: we are really busy; we will get to you later. Because of the above, and more, Mr. Cashion seeks compensatory damages against these Defendants.

JURISDICTION AND VENUE

1.

Jurisdiction is proper under 28 U.S.C. § 1331 and 1343(a)(4), as well as under 42 U.S.C. § 1983. Venue is proper under 28 U.S.C. § 1391(b) and L.R. 2 (b) because (1) a substantial part of the events and omissions giving rise to Mr. Cashion's claims occurred within this District and Division and (2) Defendants reside and transact business in this District and Division.

ADMINISTRATIVE EXHAUSTION

2.

Mr. Cashion is not incarcerated and thus does not have to show that administrative remedies related to his claims have been exhausted. See Cofield v. Bowser, 247 F. App'x 413, 414 (4th Cir. 2007) (reasoning, “[b]ecause Cofield was not a prisoner when he filed his complaint, the PLRA exhaustion requirement is not applicable to his § 1983 action.”)

PARTIES

3.

Plaintiff Alvion Cashion is aged 46, and currently not incarcerated. The facts pertaining to his claims are outlined in the Fact Section and Counts below.

4.

Defendant Dr. Quiñones, at all times relevant, was the medical doctor at Middle River Regional Jail (“MRRJ”) who had the obligation to ensure that Plaintiff had an independent assessment that would determine whether he could ascertain his prescribed anti-psychotic medication. Dr. Quiñones knew Plaintiff required prescribed anti-psychotic medication because Dr. Quiñones reviewed Plaintiff’s medical records, which demonstrated that, while at MRRJ, Plaintiff required prescribed anti-psychotic medication to treat his severe mental condition.

Dr. Quiñones also knew Mr. Cashion needed his prescribed anti-psychotic medication because Dr. Quiñones reviewed Mr. Cashion's medical request form in which Mr. Cashion requested assistance with his mental illness, to include a request for anti-psychotic pain medication.

Dr. Quiñones never prescribed Plaintiff any medication (prescribed anti-psychotic or otherwise) and, as a result, Plaintiff suffered a psychotic break while at MRRJ: Plaintiff began beating his head against the wall and experiencing severe bodily pain. Dr. Quiñones also never performed an independent medical assessment of Mr. Cashion to determine that Mr. Cashion did not require his anti-psychotic pain medication. Dr. Quiñones also never ensured that Mr. Cashion met with a qualified mental health professional who could also perform an independent medical assessment of Mr. Cashion to determine whether Mr. Cashion required his anti-psychotic pain medication, or some other form of medication to help treat his mental illness.

At all times relevant to this Complaint, Dr. Quiñones was responsible for ensuring that he knew all controlling law within the Fourth Circuit regarding deliberate indifference to medical needs, including the Fourth Circuit Court of Appeal's case law with respect to under-medicating inmates and flat-out denying

demonstrably required prescription medication to inmates under Dr. Quiñones' care and custody.

At all times relevant to this Complaint, Dr. Quiñones was acting was acting under the color of state and federal laws, and Dr. Quiñones was responsible for knowing and acting in accordance with all policies, procedures, orders, special orders, general orders, guidelines and regulations of the Middle River Regional Jail and Middle River Regional Jail Authority, while upholding his responsibility as the doctor for MRRJ.

5.

Defendant Jack Lee, at all relevant times, was the Superintendent of MRRJ. Defendant Lee's tenure as Superintendent of MRRJ was approved by board members of the Middle River Regional Jail Authority. Defendant Lee, at all relevant times, was responsible for creating and implementing all policies and procedures at MRRJ. Prior to MRRJ staff refusing to provide Mr. Cashion with his prescribed anti-psychotic medication, Defendant Lee implemented a policy of prohibiting MRRJ staff from prescribing anti-psychotic medication to inmates at MRRJ. In fact, MRRJ staff told Mr. Cashion that MRRJ medical officials do not prescribe anti-psychotic medication to inmates at MRRJ. Because of Defendants Lee's policy, staff refused to provide Mr. Cashion his prescribed anti-psychotic

medication. Jack Lee's job description stated that he must "ensure the proper health, development, and medical care for all inmates."

At all times relevant to this Complaint, Jack Lee was responsible for ensuring that he knew all controlling law within the Fourth Circuit regarding deliberate indifference to medical needs, including the Fourth Circuit Court of Appeal's case law with respect to under-medicating inmates and flat-out denying anti-psychotic medication to inmates who demonstrate a medical need for said medication.

At all times relevant to this Complaint, Jack Lee was acting acting under the color of state and federal laws, and Jack Lee was responsible for knowing and acting in accordance with all policies, procedures, orders, special orders, general orders, guidelines and regulations of the Middle River Regional Jail and Middle River Regional Jail Authority, while upholding his responsibility as the general superintendent for MRRJ.

6.

Middle River Regional Jail Authority ("MRRJA"), through its board of Directors, governs Middle River Regional Jail. MRRJA offered Jack Lee his position as Superintendent of MRRJ, and Lee accepted this offer by MRRJA. Middle River Regional Jail Authority also vested policy-making authority, for

MRRJ, in Jack Lee. MRRJA was the employer of Defendant Jack Lee at all times relevant to this Complaint. At the time Jack Lee implemented and oversaw the policy of not prescribing anti-psychotic medication to inmates at MRRJ, Jack Lee was acting as an employee of MRRJA.

RELEVANT FACTS

A. Defendant Jack Lee

7.

Defendant Jack Lee at all relevant times to this Complaint was the Superintendent of MRRJ.

8.

Defendant Lee's tenure as Superintendent of MRRJ was approved by the Chairman of the Middle River Regional Jail Authority.

9.

The Chairman of the Middle River Regional Jail Authority, on behalf of the Middle River Regional Jail Authority, offered Defendant Lee his job as the Superintendent of Middle River Regional Jail.

10.

Defendant Lee accepted the job offer made by the Middle River Regional Jail Authority to become the Superintendent of MRRJ.

11.

At all relevant times to this Complaint, Defendant Lee's job description stated that he must "ensure the proper health, development, and medical care for all inmates."

12.

Defendant Lee's job description required him to review and approve medical policies at MRRJ and these medical policies were in effect prior to Mr. Cashion being incarcerated at MRRJ, including medical policies related to prescribing inmates prescription medications.

13.

Prior to Mr. Cashion being incarcerated at MRRJ, Defendant Lee developed and implemented a policy that prohibited all staff, including medical staff and independent contract employees, from prescribing inmates anti-psychotic medication to MRRJ inmates.

14.

Prior to Mr. Cashion being incarcerated at MRRJ, Defendant Lee approved an MRRJ policy that prohibited all staff, including medical staff and independent contract employees, from prescribing inmates anti-psychotic medication. Numerous inmates at MRRJ, over the span of years, have been denied prescription

medication to treat known, medically diagnosed injuries because of Mr. Lee's policy. Numerous inmates at MRRJ, over the span of years, have been denied an assessment by a qualified health professional to determine if said inmate should continue to receive prescription medication to treat known, medically diagnosed injuries such as Mr. Cashion's mental illness.

15.

While Mr. Cashion was incarcerated at MRRJ, Defendant Lee's policy of refusing to prescribe MRRJ inmates anti-psychotic medication was in effect and thus applied to Mr. Cashion's request for MRRJ to prescribe him anti-psychotic medication based on his known, medically diagnosed mental illness.

16.

Jack Lee, as Superintendent of MRRJ, required all staff and independent contractors such as mental health professionals—as a matter of MRRJ policy—to refuse prescribing anti-psychotic medication to inmates at MRRJ, as evidenced by staff telling Mr. Cashion that no MRRJ personnel can prescribe him anti-psychotic medication; and also as evidenced by the fact that on Mr. Cashion's second stint at MRRJ, he arrived with his prescription medication and MRRJ staff let him use his own prescription medication, *but once his own medication ran out*, MRRJ personnel told Mr. Cashion they cannot prescribe him anti-psychotic medication—

and thus MRRJ staff refused to do so, and also refused to provide Mr. Cashion with any non-prescriptive medication to help him with his mental condition.

17.

At all relevant time to this Complaint, Jack Lee enforced MRRJ's policy of refusing to prescribe anti-psychotic medication to MRRJ inmates by disciplining any staff member who disobeyed said directive/policy. MRRJ staff, including independent contractors such as mental health professionals simply did not perform independent assessments of MRRJ inmates such as Mr. Cashion regarding the need to for anti-psychotic medication because Lee had a policy that required the refusal of prescription, antipsychotic medication to inmates.

18.

At the time that Jack Lee created and implemented MRRJ's policy of refusing to prescribe MRRJ inmates prescription, such as anti-psychotic medication, Defendant Lee was an employee of MRRJA.

19.

At the time that Jack Lee approved MRRJ's policy of refusing to prescribe MRRJ inmates prescription medication, Defendant Lee was an employee of MRRJA.

20.

At all relevant times to this Complaint, Defendant Lee's job description required him to "ensure[] legal compliance [of MRRJ] by remaining current on all correctional philosophies and case law."

B. Lee's job duties in relation to psychotropic medication

21.

Defendant Superintendent Lee's job description at all times relevant to this Complaint required Lee to ensure that MRRJ "is in full compliance with Virginia Department of Correction *standards*."

22.

At all relevant times to this Complaint, the Virginia Department of Corrections *standards* required anyone performing mental health screening of an inmate to make an inquiry into "whether the offender is presently prescribed psychotropic medication"; psychotropic medication is defined as "Medication prescribed for the treatment of a documented mental health disorder, e.g., thought, mood, or behavior disorder."

23.

Another standard of the Virginia Department of Corrections mandated, at all relevant times to this Complaint, that "[a] newly received offender who is

prescribed psychotropic medication for a mental disorder will be interviewed by the QMHP within *one working day* of admission to a Reception and Classification Center or Parole Violator Unit”; a QMHP is defined as a quality mental health professional, who by definition is “[a]n individual employed in a designated mental health services position as a Psychologist or Psychology Associate, Psychiatrist, Social Worker (Masters level) or Registered Nurse or an individual with at least a Master’s degree in psychology, social work or relevant human services field with knowledge, training, and skills in the diagnosis and treatment of mental disorders.”

24.

Standards of the Virginia Department of Corrections permit inmates to be prescribed psychotropic medication after proper assessment, and at no time did Lee institute a policy that required a mental health professionals to visit and diagnose an inmate such as Mr. Cashion for mental health illness—after an MRRJ staff member initially determined, through its medical screening process, that said inmate was taking prescribed anti-psychotic medication upon entering MRRJ jail.

C. Facts related to Mr. Cashion's claims of deliberate indifference against Jack Lee and Dr. Quiñones

25.

Upon entering MRRJ, medical staff performed a medical screening of Mr. Cashion and inquired as to whether Mr. Cashion was taking psychotropic medication; indeed, Mr. Cashion told MRRJ medical staff that he had suffered from psychotic breaks for over 11 years and as a result, he had been prescribed anti-psychotic pain medication, Prolixin.

26.

Prolixin is a psychotropic medication.

27.

After Mr. Cashion told MRRJ medical staff that he had suffered from psychotic breaks for over 11 years and as a result, he had been prescribed anti-psychotic medication, Prolixin, Mr. Cashion provided MRRJ staff with information as to where to acquire his medical records from previous medical providers.

28.

During his entire 56 day stay at MRRJ (appx. October 17, 2015 through December 11), no mental health professional, or any other physician at MRRJ, met

with Mr. Cashion to assess his mental health, after determining during his mental health screening that he taking prescribed psychotropic medication as a requirement to treat his mental health illness.

29.

During his stay at MRRJ, Mr. Cashion submitted a medical request form to request prescribed anti-psychotic medication, and repeatedly implored medical staff to provide him with prescription anti-psychotic medication.

30.

MRRJ policy is to submit medical request forms to MRRJ's designated doctor, who in this case is Dr. Quiñones.

31.

Dr. Quiñones read Mr. Cashion's medical request for anti-psychotic medication, Prolixin, and also read his medical records, which demonstrated that indeed Mr. Cashion suffered from a history of mental disease that required Prolixin or its equivalent in order to help prevent Mr. Cashion from suffering a mental break, such as a suicide attempt or attempt to injury himself or others.

32.

Despite fully understanding Mr. Cashion's essential need for his anti-psychotic medication, Dr. Quiñones refused to prescribe Mr. Cashion with any form of medication (anti-psychotic medication or otherwise) because MRRJ policy—approved by Jack Lee—prohibited Dr. Quiñones from prescribing Mr. Cashion anti-psychotic medication, and also created a culture in which Dr. Quiñones knew that it was a complete waste of time to refer Mr. Cashion to a mental health professional because no prescription medication would be provided to Mr. Cashion—per policy.

33.

At the time that Mr. Cashion required anti-psychotic medication, Dr. Quiñones had the professional ability to prescribe Mr. Cashion his anti-psychotic medication such as Prolixin, yet, despite fully understanding Mr. Cashion's essential need for his anti-psychotic medication, Dr. Quiñones never assessed Mr. Cashion to make an independent determination as to whether, in his professional medical opinion, Mr. Cashion required anti-psychotic medication, or whether Mr. Cashion needed to see another mental health professional—as evidenced by Mr. Cashion stating that Dr. Quiñones never met with Mr. Cashion while he was incarcerated at MRRJ; nor did Dr. Quiñones ever refer Mr. Cashion to a qualified mental health professional while Mr. Cashion was incarcerated at MRRJ—despite

fully understanding Mr. Cashion's essential need for his anti-psychotic medication. Dr. Quiñones also had the ability to ignore Lee's policy and thus recommend that Mr. Cashion be seen by a mental health professional to assess his need for anti-psychotic medication, yet, Dr. Quiñones failed to do so.

34.

Mr. Cashion stated that MRRJ staff told him, in response to his repeated requests for his anti-psychotic medication, and his submission of a medical request form, that Dr. Quiñones was backed up and that eventually someone would attend to Mr. Cashion. No one ever attended to Mr. Cashion's mental health needs—in nearly two months.

35.

As a result of Mr. Cashion not receiving his anti-psychotic medication (or any medication), he suffered a psychotic break during which he banged his head against a prison wall and suffered racing thoughts and loss of short-term memory.

36.

As a result of Mr. Cashion not receiving his anti-psychotic medication (or any medication), he became belligerent and confrontational with inmates and thus was placed in solitary confinement, where he experienced more depression and serious negative effects of not taking his anti-psychotic medication.

37.

As a result of Mr. Cashion not receiving his anti-psychotic medication (or any medication), he became obstinate with guards.

38.

Dr. Quiñones was well aware of Mr. Cashion banging his head against the wall and screaming for help because the incident was reported to Dr. Quiñones, yet Dr. Quiñones refused to prescribe any medication (anti-psychotic or otherwise), and also refused to refer Mr. Cashion to a qualified mental health official for assessment, due to Jack Lee's policy that prohibited said prescription.

39.

Dr. Quiñones was well aware of Mr. Cashion banging his head against the wall and screaming for help because the incident was reported to Dr. Quiñones, yet Dr. Quiñones refused to provide Mr. Cashion with any medication at all, including *non*-prescription medication.

COUNT I
VIOLATION OF MR. CASHION'S EIGHTH AMENDMENT RIGHTS
PURSUANT TO 42 U.S.C § 1983
(Federal claim against Defendant Dr. Quiñones)

40.

Plaintiff fully incorporates paragraphs 3-39, *and any paragraph this Court deems relevant*, as fully stated herein to support Plaintiff's Count I.

41.

Based on the incorporated paragraphs to support this Count I, Defendant Dr. Quiñones violated Mr. Cashion's right to be free from deliberate indifference to his known serious medical need for his prescribed anti-psychotic medication (or some medication, prescription or otherwise), and said right was clearly established at the time Defendant Dr. Quiñones deliberately failed to provide Mr. Cashion with any medication at all to deal with Mr. Cashion's known severe mental condition. Consequently, Mr. Cashion is entitled to all damages permissible under controlling law, as well as attorney fees and cost regarding this lawsuit.

COUNT II
SUPERVISORY LIABILITY REGARDING THE VIOLATION OF MR.
CASHION'S EIGHTH AMENDMENT RIGHTS PURSUANT TO 42 U.S.C §
1983
(Federal claim against Defendant Jack Lee)

In a published Opinion, the Fourth Circuit Court of Appeals had this to say about the potential liability of a supervisory official in the context of alleged unconstitutional conduct that causes harm to any person:

Recognizing that supervisory liability can extend “to the highest levels of state government,” we have noted that liability ultimately is determined “by pinpointing the persons in the decisionmaking chain whose deliberate indifference permitted the constitutional abuses to continue unchecked.” *Slakan*, 737 F.2d at 376. *See Spell v. McDaniel*, 591 F.Supp. 1090, 1109–10 (E.D.N.C.1984) (determining issue on supervisory liability is whether defendant proximately caused a violation of the plaintiff's rights by doing something or failing to do something he should have done).

Shaw v. Stroud, 13 F.3d 791, 798–99 (4th Cir. 1994)

42.

Plaintiff fully incorporates paragraphs 3- 41, *and any paragraph this Court deems relevant*, as fully stated herein to support Plaintiff's Count II.

43.

On top of the incorporated paragraphs *to support this Count II*, Defendant Jack Lee never approved or created a policy that required Dr. Quiñones to independently assess inmates who have a demonstrated need for prescription

medication to treat medically diagnosed mental illness, in order to determine alternative medications (prescription or otherwise) that could help the said inmates treat their known, medically diagnosed mental illness, such as Mr. Cashion's mental illness. Moreover, Lee failed to implement a policy and procedure to ensure that an incoming inmate whose medical screening demonstrated that said inmate has been prescribed psychotropic medication actually received a follow up visit by a qualified mental health professional to independently determine whether said inmate would be prescribed psychotropic medication while being housed at MRRJ.

To the contrary, Lee approved a policy that prohibited MRRJ inmates from receiving prescribed medication by any official contractually associated with MRRJ and as a result Mr. Cashion never received (1) prescription medication to treat his illness or (2) received an independent assessment of his known, medically diagnosed mental illness to determine what medication (prescription or otherwise) was needed to help him deal with his mental illness. As a result of those facts, and *all facts used to support this Count II*, Jack Lee is the person in the "decisionmaking chain whose deliberate indifference permitted the constitutional abuses to continue unchecked." Consequently, Mr. Cashion is entitled to all damages permissible under controlling law, as well as attorney fees and cost regarding this lawsuit.

COUNT III
RESPONDEAT SUPERIOR

(State law claim against Defendant MRRJA for the acts of Defendant Dr. Quiñones and Defendant Lee)

44.

Plaintiff fully incorporates paragraphs 3-43, *and any paragraph this Court deems relevant*, as fully stated herein to support Plaintiff's Count III.

45.

Defendant Dr. Quiñones was on duty as an employee of MRRJA when he deliberately chose not to prescribe Mr. Cashion any medication (prescription or otherwise) to treat his known mental illness and deliberately chose not to ensure that Mr. Cashion visited a qualified mental health professional to assess Mr. Cashion's need for prescription medication to treat his mental illness. As a result, *and also based on the incorporated facts to support this Count III*, Mr. Cashion suffered a mental break that caused him to suffer severe injury in a variety of ways. Consequently, MRRJA is potentially liable to Mr. Cashion under the doctrine of respondent superior.

MRRJA is also liable to Mr. Cashion for the conduct of Defendant Lee who failed to implement a required policy which ensured that once MRRJ's initial screening process determined that inmates such as Mr. Cashion were taking

prescribed psychotropic (anti-psychotic) medication, those same inmates were immediately seen by a qualified mental health professional to determine whether Mr. Cashion (and other like inmates) should continue taking their prescribed anti-psychotic medication. Moreover, Lee's prohibitive policy and omissions caused Dr. Quiñones to (1) deny Mr. Cashion's repeated request for prescription medication to treat his mental illness and (2) fail to refer Mr. Cashion to a mental health professional to assess his mental health needs.

COUNT IV
PUNITIVE DAMAGES
(Against Defendant Dr. Quiñones and Lee individually)

Based on the facts alleged in this complaint, Plaintiff is entitled to punitive damages, under all applicable laws, because Defendants acted with a willful and conscience indifference to the laws that protect Mr. Cashion's Constitutional rights.

COUNT V
ATTORNEY FEES

Based on the facts alleged in this Complaint, Mr. Cashion is entitled to attorney fees, under all applicable laws.

WHEREFORE, Mr. Cashion prays for a trial by jury of twelve and judgment against Defendants as follows:

- (a) The process issue and service be had on each Defendant;
- (b) That judgment be granted in favor of the Plaintiff against the Defendants,
jointly and severally, for the injuries of Plaintiff;
- (c) That Plaintiff recover compensatory damages including pain and
suffering, lost income and future lost income, and other expenses in an
amount to be determined at trial, including attorney fees;
- (d) Plaintiff be awarded damages for his loss earnings and reduction in his
earning capacity from Defendants;
- (e) That Plaintiff recover all costs of this litigation;
- (f) That a jury trial be held on all issues so triable;
- (g) Plaintiff have Judgment against Defendants for punitive damages; and
- (h) That Plaintiff receives such other and further relief as the Court deems
just and proper.

Respectfully submitted on this 31st day of January 2017,



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