

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION**

JASPER LEE VICK,)	
# 139471,)	
)	
Plaintiff,)	No. 1:18-cv-00003
)	CHIEF JUDGE CRENSHAW
v.)	
)	
CORE CIVIC, et al.,)	
)	
Defendants.)	

ORDER

Jasper Lee Vick, an inmate of the South Central Correctional Facility (SCCF) in Clifton, Tennessee, brings this pro se action under 42 U.S.C. § 1983, alleging violations of his civil rights. (Doc. No. 1). He names the following Defendants: Core Civic, Corrections Care of America (CCA), the Tennessee Department of Correction (TDOC), TDOC Commissioner Tony Parker, Core Civic Chief Executive Officer Damon Hinninger, SCCF nurse Westray, Trousdale Turner Correctional Facility (TTCC) food steward Compton, TTCC staff advisor K. Walton, TTCC Chief of Security Cox, TTCC TDOC Liaison Chris Brum, SCCF TDOC Liaison Robert Cole Thurman, TTCC Administrative Warden Blair Liebach, SCCF Administrative Warden Cherry Lindamood, TTCC Assistant Warden J. Wardlow, TTCC Assistant Warden of Programs Yolanda Pittman, TTCC Chief of Unit Managers J. Veal, TTCC Unit Manager M. Dethrow, TTCC Inmate Relation Counsel V. Jenkins, TTCC Disciplinary Hearing Officer J. Garner, TTCC Case Manager B. Peterson, TTCC Unit Manager S. Payne, TTCC corrections officer V. McVay, TTCC corrections officer M. Otjens, TTCC corrections officer Cole, TTCC corrections officer Price, SCCF nurse Clenny, SCCF nurse Westray, SCCF Health Administrator J. Garner, SCCF nurse Heather Banks, SCCF corrections

officer Daniel Harville, SCCF corrections officer Brandy White, SCCF corrections officer James Bumphus, SCCF corrections officer Wesson, SCCF grievance coordinator Leigh Staggs, SCCF mailroom personnel Lineberry, SCCF corrections officer Sharvon Harris, SCCF nurse Brandi Keeton, SCCF Assistant Warden Danny Dodd, SCCF Assistant Warden of Security Scotty Peeler, SCCF nurse practitioner Kelley, SCCF Captain G. Keeton, SCCF Disciplinary Hearing Officer G. Gonzales, SCCF mailroom personnel H. Nava, and SCCF Disciplinary Hearing Officer B. Pevahouse, alleging violations of the Plaintiff's civil rights. (Doc. No. 1).

The Plaintiff has submitted an application to proceed in forma pauperis (Doc. No. 2) and supporting documents (Doc. No. 5). For the reasons explained in the Memorandum Opinion entered contemporaneously herewith, the Court finds that the Plaintiff has at least three strikes under the Prison Litigation Act. 28 U.S.C. § 1915(g). The Court further finds, however, that the Plaintiff has demonstrated that he is under imminent danger of serious physical harm. Having satisfied the exception to the three strikes rule, the Court will consider the Plaintiff's in forma pauperis application.

From a review of his application, the Plaintiff lacks sufficient financial resources from which to pay the full filing fee in advance. Therefore, the application to proceed in forma pauperis (Doc. No. 2) is hereby **GRANTED**.

Under § 1915(b), the Plaintiff nonetheless remains responsible for paying the full filing fee. The obligation to pay the fee accrues at the time the case is filed, but the PLRA provides prisoner-Plaintiffs the opportunity to make a "down payment" of a partial filing fee and to pay the remainder in installments. Accordingly, the Plaintiff is hereby assessed the full \$350 filing fee, to be paid as follows:

(1) The custodian of the Plaintiff's inmate trust fund account at the institution where he now resides is **DIRECTED** to submit to the Clerk of Court, as an initial payment, "20 percent of the greater of – (a) the average monthly deposits to the Plaintiff's account; or (b) the average monthly balance in the Plaintiff's account for the 6-month period immediately preceding the filing of the complaint." 28 U.S.C. § 1915(b)(1).

(2) After the initial filing fee is fully paid, the trust fund officer must withdraw from the Plaintiff's account and pay to the Clerk of this Court monthly payments equal to 20% of all deposits credited to the Plaintiff's account during the preceding month, but only when the amount in the account exceeds \$10. Such payments must continue until the entire \$350 filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

(3) Each time the trust account officer makes a payment to this court as required by this order, he must print a copy of the prisoner's account statement showing all activity in the account since the last payment made in accordance with this order and submit it to the Clerk along with the payment. All submissions to the court must clearly identify the Plaintiff's name and the case number as indicated on the first page of this order, and must be mailed to: Clerk, United States District Court, Middle District of Tennessee, 801 Broadway, Nashville, TN 37203. Acceptable forms of payment by pro se plaintiffs are cash, money order, cashier's check or credit card payment.

The Clerk of Court is **DIRECTED** send a copy of this order to the administrator of inmate trust fund accounts at the SCCF to ensure that the custodian of the Plaintiff's inmate trust account complies with that portion of 28 U.S.C. § 1915 pertaining to the payment of the filing fee. If the Plaintiff is transferred from his present place of confinement, the custodian of his inmate trust fund account **MUST** ensure that a copy of this Order follows the Plaintiff to his new place of confinement

for continued compliance with this Order.

The Court has reviewed the complaint pursuant to 28 U.S.C. § 1915(e)(2) and finds the complaint states the following actionable claims under 42 U.S.C. § 1983:

- (1) Eighth Amendment deliberate indifference to the Plaintiff's serious medical needs claims against SCCF nurse practitioner Kelley and nurse Clenny in their individual capacities based on the Plaintiff's alleged medical treatment;
- (2) Eighth Amendment deliberate indifference to the Plaintiff's serious medical needs claims against TDOC, CCA/Core Civic, Hinninger, Liebach, Lindamood, Wardlow, Pittman, Dodd, and Peeler based on the alleged policy of, and implementation of the policy of, putting the financial well-being of CCA/Core Civic and its shareholders above inmate medical care;
- (3) Eighth Amendment deliberate indifference to the Plaintiff's serious medical needs claims against SCCF Defendants J. Garner, Westray, Banks, and White and TTCC Defendants Jenkins, Peterson, Payne, McVay, Price, Otjens, Cole, and J. Garner in their individual capacities based on their alleged actions or personal involvement in decisions affecting the Plaintiff's medical treatment and well-being;
- (4) First Amendment claims against CCA/Core Civic and TDOC based on the alleged inability of inmates in the SCCF Refuse Cell Assignment pod to attend religious services or otherwise exercise their religion pursuant to CCA, TDOC, and/or SCCF policy;
- (5) First Amendment claims against TTCC Defendants Jenkins, Payne, Peterson, J. Garner, McVay, Price, Cole, and Otjens in their individual capacities and SCCF

Defendants B. Keeton, G. Keeton, Harville, Banks, White, Peeler, Lineberry, Pevahouse, and Gonzales in their individual capacities based on their alleged retaliatory acts; and

- (6) First Amendment claims against TDOC, Tony Parker, and TTCC Defendants Jenkins, Peterson, Payne, McVay, Price, Otjens, Cole, and J. Garner in their individual capacities based on their roles in the Plaintiff's alleged denial of access to court.

28 U.S.C. § 1915A. These claims shall proceed for further development of the record.

However, the complaint fails to state claims upon which relief can be granted as to all other claims against all other Defendants. Therefore, those claims and Defendants Compton, Walton, Cox, Brum, Thurman, Veal, Dethrow, Bumphus, Wesson, Staggs, Harris, and Nava are hereby **DISMISSED**.

Consequently, the Clerk is instructed to send the Plaintiff a service packet (a blank summons and USM 285 form) for the remaining Defendants. The Plaintiff will complete the service packets and return them to the Clerk's Office within twenty-eight (28) days of the date of receipt of this Order. Upon return of the service packets, **PROCESS SHALL ISSUE** to the remaining Defendants.

The Plaintiff is forewarned that his prosecution of this action will be jeopardized if he should fail to keep the Clerk's Office informed of his current address.


The Plaintiff is advised that process cannot be served upon any Defendant until the actual individual involved in the alleged incident has been properly identified. The Plaintiff is put on notice of his obligation to exercise due diligence to take discovery and conduct a reasonable

investigation to promptly determine the actual names of the as-yet fully identified Defendants, and to file a timely motion pursuant to Fed. R. Civ. P. 15 for leave to amend his complaint to correctly identify these Defendants by their full names once their names are ascertained, and to effect timely service of process upon the individuals as required by Fed. R. Civ. P. 4(m).

Pursuant to 28 U.S.C. §§ 636(b)(1)(A) and (B), this action is **REFERRED** to the Magistrate Judge to enter a scheduling order for the management of the case, to dispose or recommend disposition of any pre-trial, non-dispositive motions, to issue a Report and Recommendation on all dispositive motions, and to conduct further proceedings, if necessary, under Rule 72(b), Fed. R. Civ. P., and the Local Rules of Court.

Upon referral, the Magistrate Judge should provide for early, limited discovery to be served by the Plaintiff to ascertain the full names of any Defendants, and should set a deadline for the Plaintiff to amend his complaint to identify these individuals by their full names, and thereafter to effect service on these Defendants. Despite the issuance of process, the Magistrate Judge may sua sponte recommend the dismissal of any claim for the reasons set forth in 28 U.S.C. § 1915(e)(2).

IT IS SO ORDERED.



WAVERLY D. CRENSHAW, JR.
CHIEF UNITED STATES DISTRICT JUDGE