

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

AJANI POSEY, :
 :
 Plaintiff :
 :
 vs. : NO. 2024 - 0051 - MD
 :
 :
 SCOTT KLINEFELTER, :
 :
 BRITTANY SCHILIRO, and :
 :
 SEAN BRESNAHAN :
 :
 Defendants :

ORDER

AND NOW, this 19th day of February, 2025, upon consideration of the Petition to Proceed In Forma Pauperis and Plaintiff's pro se Civil Complaint, it is the ORDER of this Court that the Plaintiff's Complaint is DISMISSED with prejudice for the following reasons:

1. On or about November 12, 2024, this Court received a Civil Complaint from Ajani Posey (hereinafter "the Plaintiff") who was an inmate at SCI-Frackville at the time. Previously, the Plaintiff was an inmate at SCI-Houtzdale in Clearfield County.
2. In his complaint, the Plaintiff alleged that on April 29, 2023, he was on a documented hunger strike on HB-Pod. At approximately 9:48 a.m., Brittany Schiliro, a psychology service specialist employed at SCI-Houtzdale (hereinafter "Defendant Schiliro") approached the Plaintiff's cell and inquired why he was refusing to eat. While speaking with the Plaintiff, Defendant Schiliro believed Plaintiff's comments indicated that he was suicidal. Based upon that belief, Defendant Schiliro ordered officers to place the Plaintiff under psychiatric observation in a different unit.
3. Plaintiff alleges that while he was under psychiatric observation, he was stripped of all of his clothing and/or property and was left in a cell with only a smock and a blanket. The Plaintiff avers further that he was not provided with hygiene products, a mattress, toilet paper, or footwear. With regard to the other Defendants, the Plaintiff alleges that

RECEIVED
SUPT'S ASST OFFICE
FEB 25 2025
SCI-HOUTZDALE
HOUTZDALE, PA 16698

I hereby certify this to be a true
and attested copy of the original
statement filed in this case

FEB 19 2025

A TRUE COPY
ATTEST: *[Signature]*
PROTHONOTARY-CLERK

Sean Bresnahan (hereinafter “Defendant Bresnahan”) is an employee who is contacted regularly to decide what prisoners are permitted to have in their cells while under a psychiatric hold and Superintendent Klinefelter (hereinafter “Defendant Klinefelter”) who Plaintiff claims owned the property, visited the Plaintiff at his cell and did not intervene. The psychiatric hold was in effect for approximately fifty-six (56) hours.

4. The Plaintiff brings the following causes of action against the Defendants: Intentional Infliction of Emotional Distress and Negligence/Medical Professional Liability.
5. On December 3, 2024, this Court issued an Order directing the Plaintiff to file a Certificate of Merit due to the allegations of medical malpractice. The Plaintiff had sixty (60) days to file a Certificate of Merit, and has failed to do so.
6. The Plaintiff avers that being held under the aforementioned conditions constitutes intentional infliction of emotional distress.

- a. In order to establish a claim for Intentional Infliction of Emotional Distress, a plaintiff must prove that the Defendant “by extreme and outrageous conduct intentionally or recklessly caused severe emotional distress.” Gray v. Huntzinger, 147 A.3d 924, 927 (Pa. Sup. Ct. 2016).
- b. The Restatement Second of Torts §46 has not been formally adopted by the Pennsylvania Supreme Court: “We therefore conclude that if section 46 of the Restatement is to be accepted in this Commonwealth, at the very least, existence of alleged emotional distress must be supported by competent medical evidence.” Id. at 928. Pennsylvania, therefore, requires the addition of objective evidence to support the existence of emotional distress.
- c. In addition, “a plaintiff must suffer some type of resulting physical harm due to the defendant's outrageous conduct.” Wilson v. Am. Gen. Fin. Inc., 807 F. Supp. 2d 291, 303 (W.D. Pa. 2011).

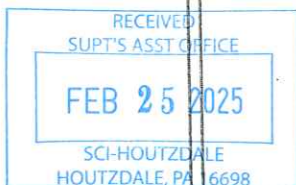


d. Extreme or Outrageous Conduct. "It has not been enough that the defendant has acted with an intent which is tortious or even criminal, or that he has intended to inflict emotional distress, or even that his conduct has been characterized by 'malice,' or a degree of aggravation which would entitle the plaintiff to punitive damages for another tort. Liability has been found only where the conduct has been so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized society..." Restatement Second of Torts §46, comment D.

e. The Plaintiff merely avers that the conditions to which he was subject constitute Intentional Infliction of Emotional Distress. He does not aver that he suffered emotional distress due to the conditions or the Defendants' conduct. Moreover, the Plaintiff failed to establish that he suffered any physical harm due to the Defendants' conduct or the conditions of his psychiatric hold. As the Plaintiff has not established either emotional distress and a corresponding physical harm resulting therefrom, the Plaintiff has not established that he has suffered Intentional Infliction of Emotional Distress.

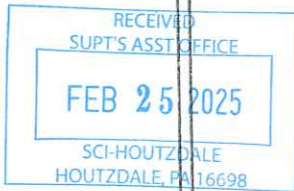
7. The Plaintiff avers that the conduct of the Defendants Schiliro and Bresnahan, wherein he was placed under psychiatric observation, constituted negligence via medical professional liability.

- a. This Court has interpreted Plaintiff's assertion to be that of medical malpractice that falls under the Medical-Professional Liability (42 Pa.C.S.A. §8522(b)(2)).
- b. To sustain a cause of action for medical malpractice, a plaintiff must establish the following: (1) the physician owed a duty to the patient; (2) the physician breached that duty; (3) the breach of duty was the proximate cause of, or a



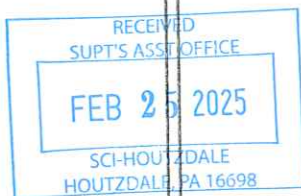
substantial factor in, bringing about the harm suffered by the patient; and (4) the damages suffered by the patient were a direct result of that harm. Rauch v. Mike-Mayer, 783 A.2d 815, 824 (Pa. Super. 2001).

- c. In this case, the Plaintiff has failed establish all four (4) elements. On December 3, 2024, this Court filed an Order directing the Plaintiff to file a Certificate of Merit pursuant to Pennsylvania Rule of Civil Procedure 1042.3, no more than sixty (60) days from the date of the Order. To date, the Plaintiff has not filed a Certificate of Merit and the sixty (60) day period has passed.
- d. "In any action based upon an allegation that a licensed professional deviated from an acceptable professional standard, the attorney for the plaintiff, or the plaintiff if not represented, shall file with the complaint or within sixty days after the filing of the complaint, a certificate of merit signed by the attorney or party that either (1) an appropriate licensed professional has supplied a written statement that there exists a reasonable probability that the care, skill or knowledge exercised or exhibited in the treatment, practice or work that is the subject of the complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm, or the claim that the defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this defendant is responsible deviated from an acceptable professional standard, or expert testimony of an appropriate licensed professional is unnecessary for prosecution of the claim." *Pa.R.C.P. 1042.3*.
- e. The Certificate of Merit goes directly to the heart of the elements of breach, causation, and harm. Without the Certificate the Complaint regarding the allegation of medical malpractice/negligence is without merit and shall be



dismissed. As the Plaintiff failed to establish the elements of medical malpractice the medical professional liability exception to sovereign immunity will not be discussed further.

8. The Plaintiff implied in his Complaint that Defendant Klinefelter was negligent when he visited the Plaintiff in his cell and did not intervene.
 - a. “To state a prima facie cause of action for negligence, a plaintiff must allege (1) a legal duty or obligation to conform to a certain standard of conduct; (2) a failure to conform to that standard; (3) a reasonably close causal connection between the conduct and resulting injury; and (4) actual damages.” Williams v. Syed, Delie, and Johnson, 782 A.2d 1090, 1093-94 (Pa. Commw. 2001).
 - b. The Plaintiff failed to establish a prima facie case for negligence as the Plaintiff did not aver any actual damages. The Plaintiff averred that the conditions constituted Intentional Infliction of Emotional Distress, however, he never averred that he experienced emotional distress nor did he aver he experienced physical symptoms that resulted therefrom.
 - c. Furthermore, this Court cannot analyze whether there was a breach of duty as the Defendant failed to file a certificate of merit suggesting that medical malpractice occurred. Therefore, Defendant Klinefelter was not negligent.
9. The Plaintiff avers that Defendant Klinefelter is vicariously liable for the conduct of Defendants Schiliro and Bresnahan as Defendant Klinefelter is the owner of the property and owes a duty of care to everyone on the property.
 - a. First and foremost, Defendant Klinefelter does not own SCI-Houtzdale. SCI-Houtzdale is a Commonwealth run entity.
 - b. Furthermore, as this Court has found that the Plaintiff has not established the necessary elements of either Intentional Infliction of Emotional Distress or



Medical Malpractice, there is nothing for which Defendant Klinefelter can be liable.

10. The Plaintiff failed to attach a Notice to Defend to his Complaint pursuant to Pennsylvania Rule of Civil Procedure 1018.1.

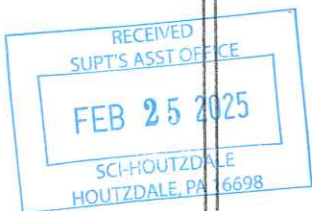
- a. (a) Every complaint filed by a plaintiff and every complaint filed by a defendant against an additional defendant shall begin with a notice to defend..." Pa.R.C.P. 1018.1(a).

11. The Plaintiff failed to attach a Verification to his Complaint as required by Pennsylvania Rule of Civil Procedure 1024.

- a. "Every pleading containing an averment of fact not appearing of record in the action or containing a denial of fact shall state that the averment or denial is true upon the signer's personal knowledge or information and belief shall be verified..." *Pa.R.C.P. 1024(a)*.

12. The Plaintiff's Complaint is frivolous.

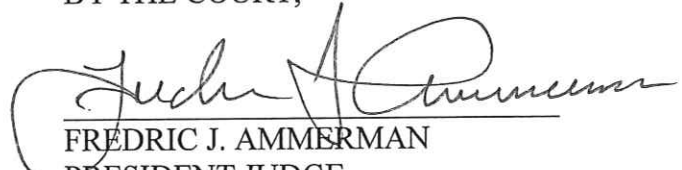
- a. "If, simultaneous with the commencement of an action or proceeding or the taking of an appeal, a party has filed a petition for leave to proceed in forma pauperis, the court prior to acting upon the petition may dismiss the action, proceeding or appeal if the allegation of poverty is untrue or if it is satisfied that the action, proceeding or appeal is frivolous." *Pa.R.Civ.P. 240(j)(1)*.
- b. "A frivolous action or proceeding has been defined as one that lacks an arguable basis in either law or fact." *Neitze v. Williams*, 490 U.S. 319, 109 S.Ct. 1827, 104 L.Ed.2d 338 (1989). *Pa.R.Civ.P. 240(j)(1), Note*.
- c. Under Rule 240(j), an action is deemed frivolous "if, on its face it does not set forth a valid cause of action." *McGriff v. Vidovich*, 699 A.2d 797, 799 n.2 (Pa. Commw. 1997). "Facial defects that can be considered by trial courts include



affirmative defenses, such as the expiration of a statute of limitations and failure to exhaust administrative remedies.” Paluch v. Palakovich, 84 A.3d 1109, 1111, 1113-13 (Pa. Commw. 2014).

- d. The Plaintiff failed to establish the necessary elements of Intentional Infliction of Emotional Distress, Medical Malpractice or Negligence. Further, he did not aver that he filed any grievances while at SCI-Houtzdale or in anyway exhaust any administrative remedies. Therefore, the Plaintiff’s Complaint shall be dismissed as frivolous, pursuant to Pa.R.C.P. 240(j).

BY THE COURT,


FREDRIC J. AMMERMAN
PRESIDENT JUDGE

