

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

FRANCIS ANDERSON, :
 Plaintiff, : PRISONER
v. : CASE NO. 3:04-CV-815 (RNC)
R. BUSH, ET AL., :
 Defendants. :

RULING AND ORDER

Plaintiff, an inmate at the Northern Correctional Institution in Somers, Connecticut, and frequent litigant in this court, brings this action pro se and in forma pauperis pursuant to 28 U.S.C. § 1915 against several members of the staff at Northern. Pursuant to 28 U.S.C. § 1915(e)(2)(B), the court is obliged to review the complaint and dismiss it if the action is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks money damages against a defendant who is immune from such relief. For the reasons that follow, the complaint plainly fails to state a claim for relief and is therefore dismissed.

The complaint and attached exhibits show the following. Plaintiff suffers from a mental health disorder for which he receives treatment. One evening, he became concerned that he was in a very agitated state. Prior to that time, he had been prescribed certain medication to be used as necessary to help him maintain impulse control. He alerted prison staff that he was

having difficulty and needed his medication.

Plaintiff's request for the medication was referred to Dudley, a staff nurse who happened to be on duty at the time. Rather than give him the medication right away, she asked him a series of questions concerning his condition, ostensibly to determine whether he really needed it. He considered her questioning to be harassing and therefore terminated the meeting and said he would wait to speak with other staff the next morning. He then returned to his cell, where he deliberately cut himself, causing a superficial wound to his arm, for which he initially refused any treatment. In due course, he filed a grievance against Dudley accusing her of unprofessional conduct. The other two defendants rejected the grievance on the ground that Dudley's conduct was proper.

Construing these facts liberally in plaintiff's favor, his claim against Dudley seems to be that she was deliberately indifferent to his need for medication in violation of the Eighth Amendment. To prevail on such a claim, plaintiff must allege acts or omissions by Dudley that were sufficiently harmful to him to evidence deliberate indifference to a serious medical need. See Estelle v. Gamble, 429 U.S. 97, 104 (1976). The alleged deprivation must have been "sufficiently serious" from an objective standpoint to support a constitutional claim, Hathaway v. Coughlin, 37 F.3d 63, 66 (2d Cir. 1994), and Dudley must have

acted with a "sufficiently culpable state of mind." See id. "An official acts with the requisite deliberate indifference when [she] 'knows of and disregards an excessive risk to inmate health or safety; the official must both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and [s]he must also draw the inference.'" Chance v. Armstrong, 143 F.3d 698, 702 (2d Cir. 1998)(quoting Farmer v. Brennan, 511 U.S. 825, 837 (1994)).

Plaintiff's allegations fall short of satisfying either the objective or subjective prongs of the deliberate indifference standard. In essence, he claims that Dudley should have given him the medication immediately in response to his request. But he does not allege that the delay occasioned by Dudley's questions threatened to cause, or did cause, any harm to his health. Nor does he allege that Dudley knew of and recklessly disregarded a substantial risk that he would harm himself unless he got the medication that night. Even assuming he is correct that Dudley should have recognized his need for the medication without doing a further assessment, such negligence does not violate the Eighth Amendment.

Turning to plaintiff's complaint against the other two defendants, his allegation that they have attempted to "cover-up" Dudley's conduct is also manifestly insufficient to support a claim for relief. The essence of this claim is that these

defendants should have sustained the grievance against Dudley. Even assuming that they willfully failed to fairly consider plaintiff's grievance, their failure to do so did not violate his constitutional rights. Failure to provide an inmate with the benefit of proper grievance procedures does not violate the constitution. See Sealed v. Sealed, 332 F.3d 51, 57 n. 5 (2d Cir. 2003).

Accordingly, the complaint is hereby dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) and (ii). The Clerk may close the file.

So ordered this 28th day of November, 2004.

Robert N. Chatigny
United States District Judge