

905-192
KEF/tlp

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION

CHAD HAMMOND,)	
)	
Plaintiff,)	
)	
v.)	No.: 3:23-cv-03058-SEM-KLM
)	
BRIAN MCREYNOLDS, et al.,)	
)	
Defendants.)	

ANSWER TO MERIT REVIEW ORDER OF JANUARY 25, 2024, ADDRESSING PLAINTIFF'S COMPLAINT AND AFFIRMATIVE DEFENSES

NOW COMES the Defendant, BRIAN MCREYNOLDS, by Keith E. Fruehling of Heyl, Royster, Voelker & Allen, his attorneys, and hereby provide this Answer and Affirmative Defenses pursuant to the Merit Review Order entered January 25, 2024 (d/e #35), mandating an Answer to the Plaintiff's Complaint, and in further support thereof, state as follows:

1. Pursuant to its Merit Review of the Plaintiff's Complaint, under 28 U.S.C. § 1915A, the Court ruled that the Plaintiff has alleged enough facts for a Fourteenth Amendment claim against Defendant BRIAN MCREYNOLDS in his individual capacity for his respective acts or omissions regarding Plaintiff's medical condition.

ANSWER: Defendant, BRIAN MCREYNOLDS, hereby denies that he violated Plaintiff's Constitutional rights as alleged in Plaintiff's Complaint in any way, shape or form, including the specific claim approved and authorized in the Court's January 25, 2024 Merit Review Order. Specifically, Defendant McReynolds denies the claim that he, individually, allegedly acted in a manner toward Plaintiff at any time, in violation of the Fourteenth Amendment,

as alleged in Plaintiff's Complaint and authorized by the Court. Moreover, Defendant denies that any of his alleged act(s) proximately caused any alleged damage(s) to Plaintiff. Finally, Defendant denies that the Plaintiff suffered any actionable damages and demands strict proof thereof. Defendant speaks to only claims allowed against him, as set forth in the above-referenced Merit Review Order.

WHEREFORE, the Defendant, BRIAN MCREYNOLDS, respectfully requests that this Court enter judgment on his behalf and against the Plaintiff, CHAD HAMMOND, denying him the relief that he prays for in his Complaint and as a claim approved by the Merit Review Order of January 25, 2024, and any other relief this Court deems fit.

DEFENDANT DEMANDS A TRIAL BY JURY.

AFFIRMATIVE DEFENSES

NOW COMES the Defendant, BRIAN MCREYNOLDS, by KEITH E. FRUEHLING of HEYL, ROYSTER, VOELKER & ALLEN, P.C., his attorneys, and pursuant to Federal Rule of Civil Procedure 8(b) and (c), the Defendant sets forth his Affirmative Defenses as follows:

1. To the extent Plaintiff has failed to exhaust his administrative remedies, this Defendant is entitled to judgment as a matter of law.

2. To the extent that Plaintiff's Complaint seeks to assert any claims for damages sustained more than two years before Plaintiff filed his Complaint, said claims are barred by the statute of limitations.

3. Defendant is entitled to qualified immunity.

4. To the extent that Plaintiff seeks to hold the above-named Defendant liable for the acts or omissions of anyone other than himself under federal law, said claims are barred by law and § 1983 does not allow claims based upon vicarious liability or respondeat superior.

DEFENDANT DEMANDS A TRIAL BY JURY.

Respectfully submitted,

BRIAN MCREYNOLDS, Defendant

BY: s/Keith E. Fruehling

Keith E. Fruehling, ARDC #: 6216098

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PROOF OF SERVICE

I hereby certify that on March 25, 2024, I electronically filed the foregoing ANSWER TO MERIT REVIEW ORDER OF JANUARY 25, 2024, ADDRESSING PLAINTIFF'S COMPLAINT AND AFFIRMATIVE DEFENSES, with the Clerk of the Court using the CM/ECF system, which will send notification to:

Peter R. Jennetten, Esq. – jennettenpleadings@quinnjohnston.com

Quinn Johnston

227 N.E. Jefferson St.

Peoria, IL 61602-1211

I also hereby certify that on March 25, 2024, I have mailed, by United States Postal Service, the foregoing ANSWER TO MERIT REVIEW ORDER OF JANUARY 25, 2024, ADDRESSING PLAINTIFF'S COMPLAINT AND AFFIRMATIVE DEFENSES to the following non-CM/ECF participant:

Legal Mail

Chad Hammond, Inmate #K03998

Graham Correctional Center

12078 Illinois Route 185

Hillsboro, IL 62049

/s/ Keith E. Fruehling

Heyl, Royster, Voelker & Allen

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