

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF ILLINOIS  
SPRINGFIELD DIVISION**

<b>CHAD HAMMOND,</b>	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 3-23-cv-3058-SEM</b>
	)	
<b>BRIAN MCREYNOLDS <i>et al.</i>,</b>	)	
<b>Defendants.</b>	)	

**MERIT REVIEW ORDER**

**SUE E. MYERSCOUGH, United States District Judge:**

Before the Court for screening are Motions for Leave to File an Amended Complaint (Docs. 6, 9, 12, 18-20, 22) under 42 U.S.C. § 1983 by Plaintiff Chad Hammond, a prisoner at Graham Correctional Center (“Graham”). Plaintiff has also filed a Motion for Injunctive Relief (Doc. 7), Motions for Counsel (Docs. 4, 30), a Motion Opposing (Doc. 17) Defendants’ Motion to Dismiss, and Motions for Status (Docs. 21, 32, 33).

For the following reasons, the Court grants Plaintiff’s Motion for Leave to File an Amended Complaint (Doc 22), which renders moot his earlier filed Motions for Leave to File (Docs. 6, 9, 12, 18-20). Plaintiff’s Motion for Injunctive Relief (Doc. 7), Motion Opposing

Defendants' Motion to Dismiss (Doc. 17), and Motions for Status (Docs. 21, 32, 33) are moot for the reasons stated in the Court's Order. Additionally, Plaintiff's Motions for Counsel (Doc. 4, 30) are denied, with leave to renew.

## **I. AMENDED COMPLAINT**

### **A. Preliminary Consideration**

Within three months after Plaintiff filed his initial complaint (Doc. 1), he filed seven additional Motions for Leave to File an Amended Complaint (Docs. 6, 9, 12, 18-20, 22). The Court considers only Plaintiff's latest amended pleading (Doc. 22). *See Chasensky v. Walker*, 740 F.3d 1088, 1094 (7th Cir. 2014) ("When a plaintiff files an amended complaint, the new complaint supersedes all previous complaints and controls the case from that point forward...." (quoting *Massey v. Helman*, 196 F.3d 727, 735 (7th Cir. 1999))). Thus, Plaintiff's earlier filed Motions for Leave to File (Docs. 6, 9, 12, 18-20) are moot.

### **B. Screening Standard**

The Court must "screen" Plaintiff's Complaint and dismiss any legally insufficient claim or the entire action if warranted. 28 U.S.C.

§ 1915A. A claim is legally insufficient if it “(1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or (2) seeks monetary relief from a defendant who is immune from such relief.” *Id.* In reviewing the complaint, the Court accepts the factual allegations as accurate, liberally construing them in the plaintiff’s favor. *Turley v. Rednour*, 729 F.3d 645, 649 (7th Cir. 2013). However, conclusory statements and labels are insufficient. Enough facts must be provided to “state a claim for relief that is plausible on its face.” *Alexander v. United States*, 721 F.3d 418, 422 (7th Cir. 2013) (citation omitted).

### **C. Facts Alleged**

Plaintiff’s proposed amended pleading alleges constitutional violations committed at the Shelby County Detention Center (“Jail”) against the following Defendants: Sherriff Brian McReynolds, Dr. Duran, Nurse Cathy Stephens, Advance Correctional Healthcare, Inc. (“Advanced”), and the Jail.

Shortly after Plaintiff entered the Jail on December 6, 2022, he regularly complained to the Jail’s medical staff about extreme side and stomach pain. A physician did not examine plaintiff until

February 27, 2023. Plaintiff does not state what occurred during that examination but states that no laboratory testing or urinalysis was conducted. On March 1, 2023, Plaintiff was transported to a local hospital emergency room, complaining of abdomen pain. The emergency room physician opined that Plaintiff was suffering from a “long-term intra-abdominal infection and elevated liver enzymes.” (Pl. Compl. Doc. 22 at 2:7.)

Plaintiff claims that despite knowing about his medical complaints, Defendants neither took action to determine the source of his pain nor treated his condition, which left him to suffer until his pain necessitated emergency treatment.

#### **D. Analysis**

To prevail on a claim alleging inadequate medical care, a pretrial detainee must prove three elements: (1) the medical condition is or was objectively serious; (2) the defendant acted purposefully, knowingly, or recklessly concerning the consequences of his actions; and (3) the defendant’s actions were objectively unreasonable—that is, not rationally related to a legitimate

governmental objective. *Hardeman v. Curran*, 933 F.3d 816, 827 (7th Cir. 2019).

The Court concludes that Plaintiff's facts are sufficient to state a Fourteenth Amendment claim against Defendants Duran, McReynolds, and Stephens for their respective acts or omissions regarding Plaintiff's medical condition. However, Plaintiff fails to state a plausible claim against Advanced or the Jail.

Defendant Advanced can be held liable under § 1983 if an unconstitutional act is caused by: "(1) an official policy adopted and promulgated by its officers; (2) a governmental practice or custom that, although not officially authorized, is widespread and well settled; or (3) an official with final policy-making authority." *Thomas v. Cook Cty. Sheriff's Dept.*, 604 F.3d 293, 303 (7th Cir. 2010); see also *Woodward v. Corr. Med. Servs. of Ill., Inc.*, 368 F.3d 917, 927-28 (7th Cir. 2004) (stating that the standard for municipal liability in *Monell v. N.Y. City Dep't of Soc. Servs.*, 436 U.S. 658 (1978), applies to corporations as well).

Plaintiff names Advanced because it employs Defendants Duran and Stephens, which does not state a § 1983 claim. See

*Pembaur v. City of Cincinnati*, 475 U.S. 469, 479 (1986) (“The ‘official policy’ requirement was intended to distinguish acts of the municipality from acts of employees of the municipality, and thereby [clarify] that municipal liability is limited to action for which the municipality is ... responsible.”) (emphases in original).

“Section 1983 only permits an individual to sue a ‘person’ who deprives that individual of his or her federally-guaranteed rights under color of state law.” *Snyder v. King*, 745 F.3d 242, 246 (7th Cir. 2014). Therefore, Plaintiff also fails to state a plausible § 1983 claim against the Jail. *See White v. Knight*, 710 F. App’x 260, 262 (7th Cir. 2018) (“[T]he fact that a building is owned by a corporate entity or a government agency does not make the building a suable person under § 1983.”).

## **II. INJUNCTIVE RELIEF**

The purpose of a temporary restraining order and, ultimately, a preliminary injunction is to preserve the status quo pending a final hearing on the merits of the case. *American Hospital Ass’n v. Harris*, 625 F.2d 1328, 1330 (7th Cir. 1980). “The standards for issuing temporary restraining orders are identical to the standards

for preliminary injunctions.” *Anthony v. Village of South Holland*, 2013 WL 5967505, \* 2 (N.D. Ill. November 8, 2013). “To determine whether a situation warrants such a remedy, a district court engages in an analysis that proceeds in two distinct phases: a threshold phase and a balancing phase.” *Girl Scouts of Manitou Council, Inc. v. Girl Scouts of United States of America, Inc.*, 749 F.3d 1079, 1085-86 (7th Cir. 2008).

“To survive the threshold phase, a party seeking a preliminary injunction must satisfy three requirements.” *Valencia v. City of Springfield, Illinois*, 883 F.3d 959, 965 (7th Cir. 2018) (quoting *Girl Scouts*, 549 F.3d at 1086). The movant must show that: “(1) absent a preliminary injunction, he will suffer irreparable harm in the interim period prior to final resolution of his claims; (2) traditional legal remedies would be inadequate; and (3) his claim has some likelihood of succeeding on the merits.” *Id.* After the moving party satisfies each threshold requirement, the court proceeds to the balancing phase. *Id.* at 966.

“If a prisoner is transferred to another prison, his request for injunctive relief against officials of the first prison is moot unless ‘he

can demonstrate that he is likely to be retransferred.” *Higgason v. Farley*, 83 F.3d 807, 811 (7th Cir. 1996) (quoting *Moore v. Thieret*, 862 F.2d 148, 150 (7th Cir. 1988)); see also *Maddox v. Love*, 655 F.3d 709, 716 (7th Cir. 2011) (“[The plaintiff’s] prayers for injunctive relief are moot because he is no longer an inmate at [the facility] . . . [and] has not shown a realistic possibility that he will again be incarcerated in the same state facility . . .”).

As noted, Plaintiff’s allegation occurred while detained at the Jail. However, Plaintiff filed a notice (Doc. 24) informing the Court that he transferred from the Jail to the Illinois Department of Corrections to begin serving his sentence. The IDOC website lists Graham as Plaintiff’s parent institution, and Plaintiff has not shown a realistic probability that he will return to the Jail. Thus, any injunctive relief would be speculative and directed to Graham officials, who are not parties in this case. See *Gonzalez v. Feinerman*, 663 F.3d 311, 315 (7th Cir. 2011) (concluding the proper defendant in an action for injunctive relief is the person who “would be responsible for ensuring that any injunctive relief is carried out.”). Therefore, Plaintiff’s Motion for Injunctive Relief (Doc.



7) is moot.

### **III. Motions to Recruit Counsel, Opposing Dismissal, and Status**

Plaintiff has no constitutional right to counsel, and the Court cannot require an attorney to accept *pro bono* appointments in civil cases. The most the Court can do is ask for volunteer counsel. See *Jackson v. County of McLean*, 953 F.2d 1070, 1071 (7th Cir. 1992) (holding that although indigent civil litigants have no constitutional right to counsel, a district court may, in its discretion, request counsel to represent indigent civil litigants in certain circumstances). In considering Plaintiff's motion for counsel, the Court must ask two questions: "(1) has the indigent plaintiff made a reasonable attempt to obtain counsel or been effectively precluded from doing so; and if so, (2) given the difficulty of the case, does the plaintiff appear competent to litigate it himself?" *Pruitt v. Mote*, 503 F.3d 647, 654 (7th Cir. 2007).

The Court denies Plaintiff's Motions for Counsel (Docs. 4, 30) because he has not satisfied his threshold burden of demonstrating that he has attempted to hire counsel, which typically requires writing to several lawyers and attaching the responses received.

Plaintiff may renew his request after satisfying his threshold burden.

Plaintiff's Motion Opposing Defendants' Motion to Dismiss (Doc. 17) is moot as no request for dismissal has been filed in this case. With the entry of the Court's Merit Review Order, Plaintiff's Motions for Status (Docs. 21, 32, 33) are moot.

**IT IS THEREFORE ORDERED:**

- 1) Plaintiff's Motion for Injunctive Relief (Doc. 7), Motion Opposing Defendants' Motion to Dismiss (Doc. 17) and Motions for Status (Docs. 21, 32, 33) are MOOT for the reasons stated in the Court's Order.**
- 2) The Court DENIES Plaintiff's Motions for Counsel (Docs. 4, 30).**
- 3) The Court GRANTS Plaintiff's Motion for Leave to File an Amended Complaint (Doc 22), which renders MOOT his earlier filed pleading amendments (Docs. 6, 9, 12, 18-20).**
- 4) The Court DIRECTS the Clerk of the Court ("Clerk") to docket Plaintiff's Amended Pleading (Doc. 22) and add Cathy Stephens as a Defendant.**
- 5) The Clerk SHALL terminate Advanced Correctional Healthcare, Inc., and the Shelby County Sherriff's Office as Defendants in this case.**
- 6) According to the Court's Merit Review of Plaintiff's Complaint under 28 U.S.C. § 1915A, Plaintiff has alleged enough facts to proceed with a Fourteenth Amendment claim against Defendants Duran, McReynolds, and Stephens**

**for their respective acts or omissions regarding Plaintiff's medical condition. Plaintiff's claim against Defendants proceeds in their individual capacities only. Additional claims shall not be included in the case, except at the Court's discretion on motion by a party for good cause shown or under Federal Rule of Civil Procedure 15.**

- 7) This case is now in the process of service. The Court advises Plaintiff to wait until counsel has appeared for Defendants before filing any motions to give Defendants notice and an opportunity to respond to those motions. Motions filed before Defendants' counsel has filed an appearance will be denied as premature. Plaintiff need not submit evidence to the Court unless otherwise directed by the Court.**
- 8) The Court will attempt service on Defendants by mailing each Defendant a waiver of service. Defendants have sixty days from service to file an Answer. If Defendants have not filed Answers or appeared through counsel within ninety days of the entry of this Order, Plaintiff may file a motion requesting the status of service. After Defendants have been served, the Court will enter an order setting discovery and dispositive motion deadlines.**
- 9) Concerning a Defendant who no longer works at the address provided by Plaintiff, the entity for whom that Defendant worked while at that address shall submit to the Clerk said Defendant's current work address or, if not known, said Defendant's forwarding address. This information shall be used only for effectuating service. Documentation of forwarding addresses shall be retained only by the Clerk and shall not be maintained in the public docket nor disclosed by the Clerk.**
- 10) Defendants shall file an Answer within sixty days of the date the Clerk sends the waiver. A motion to dismiss is not an answer. The Answer should include all defenses**

**appropriate under the Federal Rules. The Answer and subsequent pleadings shall be to the issues and claims stated in this Order. In general, an answer sets forth Defendants' positions. The Court does not rule on the merits of those positions unless and until Defendants file a motion. Therefore, no response to the Answer is necessary or will be considered.**

- 11) This District uses electronic filing, which means that after Defendants' counsel has filed an appearance, Defendants' counsel will automatically receive electronic notice of any motion or other paper filed by Plaintiff with the Clerk. Therefore, Plaintiff does not need to mail copies of motions and other documents that Plaintiff has filed with the Clerk to Defendants' counsel. However, this does not apply to discovery requests and responses. Discovery requests and responses are not filed with the Clerk. Instead, Plaintiff must mail his discovery requests and responses directly to Defendants' counsel. Discovery requests or responses sent to the Clerk will be returned unfiled unless they are attached to and the subject of a motion to compel. Discovery does not begin until Defendants' counsel has filed an appearance and the Court has entered a scheduling order, which will explain the discovery process in more detail.**
- 12) Defendants' counsel is granted leave to depose Plaintiff at his place of confinement. Defendants' counsel shall arrange the time for the deposition.**
- 13) Plaintiff shall immediately notify the Court, in writing, of any change in his mailing address and telephone number. Plaintiff's failure to inform the Court of a change in mailing address or phone number will result in the dismissal of this lawsuit with prejudice.**
- 14) If a Defendant fails to sign and return a waiver of service to the Clerk within thirty days after the waiver is sent, the**

**Court will take appropriate steps to effect formal service through the U.S. Marshals service on that Defendant and will require that Defendant to pay the total costs of formal service under Federal Rule of Civil Procedure 4(d)(2).**

**15) The Court directs the Clerk to enter the standard qualified protective order under the Health Insurance Portability and Accountability Act.**

**16) The Court directs the Clerk to attempt service on Defendants under the standard procedures.**

ENTERED January 25, 2024.

*s/ Sue E. Myerscough*

---

SUE E. MYERSCOUGH  
UNITED STATES DISTRICT JUDGE