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HAROLD WINFIELD CAGE, Plaintiff-Appellant, RICARDO CORA ROSARIO, Plaintiff, v. KENT COUNTY CORRECTIONAL FACILITY (JAIL); ILKA, Dr., Medical Department; YACOB, Dr., Medical Department, Defendants-Appellees.

No. 96-1167

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

1997 U.S. App. LEXIS 10002

May 1, 1997, FILED

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SUBSEQUENT HISTORY: Reported in Table Case Format at: *113 F.3d 1234, 1997 U.S. App. LEXIS 16743.*

PRIOR HISTORY: Western District of Michigan. 95-00389. 12-27-95.

DISPOSITION: All pending motions denied and the district court's judgment affirmed.

COUNSEL: HAROLD WINFIELD CAGE, Plaintiff - Appellant, Pro se, Lakeland Correctional Facility, Coldwater, MI. Harold Winfield Cage, Plaintiff - Appellant, Pro se, Saginaw, MI.

RICARDO CORA ROSARIO, Plaintiff, Pro se, Kent County Jail, Grand Rapids, MI.

For KENT COUNTY CORRECTIONAL FACILITY (JAIL), Defendant - Appellee: Randall J. Groendyk, Varnum, Riddering, Schmidt & Howlett, Grand Rapids, MI. For ILKA, Dr., Medical Department, Defendant - Appellee: Ronald W. Chapman, Chapman & Associates, Troy, MI. For YACOB, Dr., Medical Department, Defendant - Appellee: Ronald W. Chapman, (See above).

JUDGES: Before: GUY, MOORE, and COLE, Circuit Judges.

OPINION:

ORDER

Harold Winfield Cage, a Michigan state prisoner,

moves for the appointment of counsel [*2] and other miscellaneous relief, and appeals a district court judgment dismissing his civil rights complaint filed under *42 U.S.C. § 1983*. This case has been referred to a panel of the court pursuant to Rule 9(a), Rules of the Sixth Circuit. Upon examination, this panel unanimously agrees that oral argument is not needed. *Fed. R. App. P. 34(a)*.

Cage filed this action against the Kent County Correctional Facility and two doctors on its staff. Another inmate was also named in the complaint, but never participated in the case and has not appealed. Cage alleged that, while housed as a pre-trial detainee, he was denied adequate medical care and access to the law library. One of the doctors named as a defendant was never served. The remaining defendants moved for dismissal or summary judgment, to which Cage responded. The district court then granted the defendants' motions and dismissed the case. The same issues are raised on appeal.

Upon review, we conclude that the summary judgment for the defendants must be affirmed, as there is no genuine issue of material fact, and they are entitled to judgment as a matter of law. *See Anderson v. Liberty Lobby, Inc.*, *477 U.S. 242, 247, 91 L. Ed. 2d 202*, [*3] *106 S. Ct. 2505 (1986)*.

Initially, we note that the case was properly dismissed as to the defendant who was not served. *See Moncrief v. Stone*, *961 F.2d 595, 597 (6th Cir. 1992)*. The district court also properly found that the jail facility named as a defendant was not an entity subject to suit under § 1983. *See Rhodes v. McDannel*, *945 F.2d 117, 120 (6th Cir. 1991)* (per curiam), *cert. denied*, *502 U.S. 1032, 116 L. Ed. 2d 777, 112 S. Ct. 872 (1992)*.

Moreover, review of the record shows that, regardless of who was named as a defendant in this case, Cage proffered only conclusory allegations in support of his claims, which were insufficient to withstand a motion for summary judgment. *See McDonald v. Union Camp*

Corp., 898 F.2d 1155, 1162 (6th Cir. 1990). The record did not support Cage's allegations that he suffered from a serious medical need or that anyone was deliberately indifferent to his condition. Rather, it showed only that Cage had numerous complaints and disagreed with the medical staff's diagnoses and treatment decisions. This is insufficient to state a claim under the Eighth Amendment. See *Farmer v. Brennan*, 511 U.S. 825, 835, 128 L. Ed. 2d 811, [*4] 114 S. Ct. 1970 (1994). The record also did not support Cage's allegation of denial of access to the courts, as he did not demonstrate prejudice to any pending, non-frivolous litigation. See *Lewis v.*

Casey, 135 L. Ed. 2d 606, 116 S. Ct. 2174, 2180-82 (1996). For the same reasons, the district court did not abuse its discretion in denying Cage's motion to amend his complaint to add more defendants. See *Robinson v. Michigan Consol. Gas Co.*, 918 F.2d 579, 591 (6th Cir. 1990).

Accordingly, all pending motions are denied and the district court's judgment is affirmed. Rule 9(b)(3), Rules of the Sixth Circuit.