United States District Court
District of Massachusetts (Springfield)
CIVIL DOCKET FOR CASE #: 3:20-cv-30036-MGM

O'Neill v. Springfield et al
Assigned to: Judge Mark G. Mastroianni
Cause: 28:1331 Fed. Question: Tort Action

Date Filed: 03/05/2020
Jury Demand: Plaintiff
Nature of Suit: 555 Prison Condition
Jurisdiction: Federal Question

05/05/2021	32	Judge Mark G. Mastroianni: ELECTRONIC ORDER entered denying 20 Motion to Dismiss. As to Count I, which asserts a section 1983 claim against the Municipal Defendants for failure to provide medical care, the Municipal Defendants conceded at the hearing that Plaintiff adequately pled such a claim, except they argue Coscia v. Town of Pembroke, Mass., 659 F.3d 37 (1st Cir. 2011), directs there can be no liability because Ms. Linsenmeir died after she was transferred from the Springfield Police Department's custody to the Women's Correctional Center (WCC). The court does not agree. As Plaintiff argues, Coscia is materially distinguishable from this case and does not mandate dismissal. First, the decedent in Coscia was released from custody to his own recognizance, whereas Ms. Linsenmeir was not released but was merely transferred to WCC. Thus, Ms. Linsenmeir's liberty was never restored and she could not seek or receive medical care on her own. See id. at 41. Second, the Coscia decedent's physical harm (suicide) occurred after his release, while Ms. Linsenmeir's harm (heart infection) occurred while she was in custody. Therefore, at the least, the Municipal Defendants' deliberate indifference directly "intensified" Ms. Linsenmeir's harm. See id. As a result, the court concludes at this early stage of the litigation that the narrow exception to general tort causation principles outlined in Coscia does not apply here. As to Count IV, which asserts a wrongful death claim under Mass. Gen. Laws ch. 229, § 2, the court also concludes this claim survives dismissal, albeit just barely. The Municipal Defendants are correct that under the Massachusetts Tort Claims Act ("MTCA"), "recklessness is considered negligent, rather than intentional, conduct" and, thus, public employees are immune from such claims. Parker v. Chief Just. For Admin. & Mgmt. of Trial Ct., 852 N.E.2d 1097, 1103 (Mass. App. Ct. 2006) (citing cases); see also Martini v. City of Pittsfield, 2015 WL 1476768, at *9 (D. Mass. Mar. 31, 2015) ("Pursuant to the MTCA, claims based on the negligent or wrongful conduct of public employees who acted within the scope of their employment may only be brought against the 'public employer' -- in this case, the City -- and not against the individual employees; however, claims based on intentional torts may not be brought against the public

		employer, although they may be brought against the individual employees." (citing Mass. Gen. Laws ch. 258, §§ 2, 10(c))). Moreover, the facts alleged here appear to align closer to a claim of recklessness than intentional conduct. Cf. Leite v. Bergeron, 911 F.3d 47, 53 (1st Cir. 2018) ("[D]eliberate indifference entails something more than mere negligence, but is satisfied by something less than acts or omissions for the very purpose of causing harm or with knowledge that harm will result." (internal quotation marks omitted)). Nevertheless, Plaintiff has specifically alleged that "[t]he defendants caused Madelyn Linsenmeir's death by intentional acts," (Compl. 113), and the factual allegations set forth in the complaint, viewed in a light most favorable to Plaintiff, raise a plausible inference of intentional conduct. See Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 556 (2007) ("[A] well-pleaded complaint may proceed even if it strikes a savvy judge that actual proof of those facts is improbable, and that a recovery is very remote and unlikely."); see also Grajales v. Puerto Rico Ports Auth., 682 F.3d 40, 49 (1st Cir. 2012) ("When a protean issue such as an actor's motive or intent is at stake, telltale clues may be gathered from the circumstances.... The plausibility threshold simply calls for enough fact to raise a reasonable expectation that discovery will reveal evidence of the illegal conduct." (internal citations and quotation marks omitted)). In particular, Plaintiff alleged Ms. Linsenmeir repeatedly told the Municipal Defendants that she had severe chest pain and difficulty breathing, among other serious symptoms, and asked for medical care, yet defendants explicitly refused to provide any care and, in fact, intentionally failed to activate audio recording equipment during a portion of the encounter. At this early stage, these circumstances are sufficient to plausibly suggest intentional conduct, although the issue obviously may be developed during discovery and reevaluated on a more complete record. (Lindsay, Maurice) (Entered: 05/05/2021)
05/05/2021	33	Judge Mark G. Mastroianni: ELECTRONIC ORDER entered denying 15 Motion to Dismiss. As to Count II, which asserts a claim for violation of the Americans with Disabilities Act ("ADA"), the Hampden County Sheriff's Department ("HCSD") Defendants argue Eleventh Amendment state sovereign immunity bars this claim. Specifically, HCSD Defendants argue: (1) Plaintiff does not state a valid ADA clam; (2) the alleged conduct does not violate the Fourteenth Amendment; and (3) the alleged conduct is not the type which would validate the ADA's abrogation of sovereign immunity. The court disagrees with HCSD Defendants' first two arguments and, therefore, does not consider the third. See United States v. Georgia, 546 U.S. 151, 159 (2006). First, contrary to HCSD's argument, the facts pled here do not merely amount to medical malpractice. Instead, as Plaintiff argues, the facts and inferences plausibly demonstrate that Ms. Linsenmeir was denied medical care because of her opioid use disorder. Plaintiff has alleged

facts demonstrating direct discriminatory animus in that staff members who ignored Ms. Linsenmeir's medical complaints told her "the situation was her own fault for using drugs." (Compl. 67.) Plaintiff also adequately pled that WCC staff "were acclimated to be deliberately indifferent to the medical complaints made by or on behalf of incarcerated opioid users," due to WCC's policy regarding treatment of opioid withdrawal. (Id. 64.) In addition, Plaintiff has alleged facts plausibly demonstrating that "the treatment decision was so unreasonable as to be arbitrary and capricious," which itself raises an inference of "discriminatory motive." Buchanan v. Maine, 469 F.3d 158, 176 (1st Cir. 2006).

Second, the facts alleged also plausibly demonstrate a violation of the Fourteenth Amendment under the deliberate indifference standard for similar reasons. Plaintiff has alleged Ms. Linsenmeir had an objectively serious medical need for which WCC staff knowingly and deliberately failed to provide treatment. As Plaintiff argues, WCC provided effectively no treatment for Ms. Linsenmeir's chest pain and difficulty breathing, despite repeated pleas for medical care from both her and her cellmates. The "Daily Medical Rounds" records are blank for the four days she was held there, no one took her vital signs, and she became increasingly lethargic, to the point of becoming unresponsive and only then being taken by an ambulance. This conduct cannot be considered "reasoned medical judgments," Kiman v. New Hampshire Dep't of Corr., 451 F.3d 274, 285 (1st Cir. 2006), but instead a total failure to provide medical care for her serious medical condition. Accordingly, both Count II (ADA) and Count III (§1983 failure to provide medical care) are sufficiently pled. In addition, Plaintiff makes clear that the individual Doe defendants are sued in their individual capacities, so HCSD Defendants' arguments regarding official capacity claims are inapplicable. See Powell v. Alexander, 391 F.3d 1, 22 (1st Cir. 2004) (adopting "course of proceedings" test). Moreover, as to HCSD Defendants' argument that the claims against the individual John/Jane Doe defendants should be dismissed, the procedure of filing claims against unnamed defendants is permissible in the First Circuit under these circumstances. See Martinez-Rivera v. Sanchez Ramos, 498 F.3d 3, 8 (1st Cir. 2007) ("As a general matter a plaintiff may bring suit against a fictitious or unnamed party where a good-faith investigation has failed to reveal the identity of the relevant defendant and there is a reasonable likelihood that discovery will provide that information."). Plaintiff can amend the complaint to substitute the Doe defendants for identified individuals after discovery has begun.

Lastly, as to Count IV, which asserts a wrongful death claim under Mass. Gen. Laws ch. 229, § 2, HCSD Defendants did not raise any arguments in their brief regarding this claim but at the hearing adopted the arguments made by the Municipal Defendants. The court, however, concludes this

		claim survives for essentially the same reasons explained in the court's order denying the Municipal Defendants' motion to dismiss. That is, the circumstances alleged in the complaint raise a plausible inference of intentional conduct such that the Massachusetts Tort Claims Act does not bar the claim. (Lindsay, Maurice) (Entered: 05/05/2021)