

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
DELTA DIVISION**

**ANTHONY DEWAYNE WALKER
ADC #107683**

PLAINTIFF

v.

No. 2:20-cv-126-DPM-JTK

**JOHN A. MUNN, Lieutenant, EARU;
DARLENE THORSON, Doctor, Mental
Health Counselor, EARU; ALICIA
WILLIAMS, Sergeant, EARU; and JEREMY
ANDREWS, Assistant Deputy Warden,
Cummins Unit**

DEFENDANTS

ORDER

On *de novo* review, the Court partly adopts and partly declines the partial recommendation, *Doc. 4*, and partly sustains Walker's objections, *Doc. 6*. FED. R. CIV. P. 72(b)(3).

The Court declines the recommendation on Walker's claim against Dr. Thorson. The Court must construe Walker's complaint liberally. *Estelle v. Gamble*, 429 U.S. 97, 106 (1976). And "materials attached to the complaint as exhibits may be considered in construing the sufficiency of the complaint." *Morton v. Becker*, 793 F.2d 185, 187 (8th Cir. 1986). Here, the grievances Walker attached to his complaint flesh out his claim. He alleges that he was experiencing serious mental health issues; that Dr. Thorson knew about those issues because Walker had written several requests and grievances; that Dr. Thorson

would not help Walker; and that Dr. Thorson had seen him only once, many months before. *Doc. 2 at 7 & 17*. On a more developed record, this may prove to be a mere disagreement about treatment decisions. But Walker has not pleaded himself out of court at the threshold. Taking Walker's allegations as true, he's pleaded a plausible deliberate-indifference claim against Dr. Thorson.

The Court adopts the partial recommendation, as supplemented, as to Defendant Andrews. On Walker's failure-to-train and failure-to-supervise claims, he hasn't alleged that Andrews "had notice that the training procedures and supervision were inadequate and likely to result in a constitutional violation." *Andrews v. Fowler*, 98 F.3d 1069, 1078 (8th Cir. 1996). On his corrective-inaction claim, Walker hasn't pleaded facts plausibly showing that Andrews's failure to act amounted to deliberate indifference or tacit authorization. *Fruit v. Norris*, 905 F.2d 1147, 1151 (8th Cir. 1990). And Walker's claim that Andrews "created a policy or custom allowing or encouraging the illegal act" is too conclusory to state a plausible claim. *Doc. 2 at 7*. Walker's claims against Andrews are therefore dismissed without prejudice.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

26 June 2020