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Pleadings: Prisoner Fails to Link Repeated Exposure to Allergy-Causing Foods to Specific Actors or Retaliatory Events

Vartinelli v. Aramark Correctional Services, LLC., no. 19-1428 (6th Cir. Dec. 2, 2019).

Despite having suffered from repeated episodes of being served foods which caused extreme allergic reactions, a Michigan prisoner was unable to link the incidents to specific prison employees who might harbor antagonisms against him or specific instances of retaliation.

Carlo Vartinelli (Vartinelli) alleged that the Michigan prison system's food contractor and its employees served him food to which he is allergic, causing severe allergic reactions and lasting physical harm. The instant lawsuit (Vartinelli had filed ten others since 1994) concerned a string of incidents at two Michigan prisons in 2014 and 2015. The essential allegation in each case was the same: that indifferent employees served him fish or peanut butter.

Vartinelli first complained that staff at Muskegon Correctional Facility served him fish and peanut butter at various times during 2014. The warden acknowledged that Vartinelli received foods "[to] which he is highly allergic," reminded staff of "the seriousness of this issue," and punished one of the workers. Vartinelli was transferred to Macomb Correctional Facility in late November 2014, where the problems continued. He filed three grievances describing numerous run-ins with defendant its food-services director. The Macomb facility issued a new "therapeutic" diet order with a "no fish/no peanut products" instruction in February 2015, but by then Vartinelli complained of "anaphylactic attacks" that affected his heart, as well as "breathing problems" and "nerve damage." He sued the prison's food-services contractor, Aramark Correctional

Services (Aramark) and six of its employees under § 1983, alleging that the defendants showed deliberate indifference to his food allergies in violation of the Eighth Amendment, and that they retaliated against him after he complained in violation of the First Amendment. The district court dismissed the complaint for failure to state a claim.

On appeal, the Sixth Circuit reviewed the elements of Vartinelli's claims:

Deliberate indifference: To demonstrate deliberate indifference, more than ordinary negligence or medical malpractice is needed; a plaintiff must allege that "the defendant subjectively ignored [his] medical needs," and that the needs were "objectively serious." The question was whether any of the defendants acted with "a sufficiently culpable state of mind" to satisfy the subjective component of a deliberate indifference claim. The facts pleaded did not support that conclusion. Other than a passing mention in his January 2015 grievance that the defendants "refus[ed] to honor and follow [his] medically prescribed diet,"Vartinelli did not allege any facts plausibly suggesting that any defendant knowingly served him the contaminated food or failed to take "reasonable measures" to prevent others from doing so.

Aramark, although a private entity, had contracted with the prison to provide services and was therefore "acting under color of state law" and susceptible to a Vartinelli's section 1983 action. But he failed to plausibly allege that Aramark maintained a policy or custom that disregarded inmates' medical needs, as he needed to do to state a *Monell* claim.

Retaliation: To state a retaliation claim under the First Amendment, a plaintiff must allege that he engaged in protected conduct, that he suffered an adverse action, and that there is a causal connection between the two. Vartinelli satisfied the first two elements, alleging that Aramark employees retaliated against him for filing grievances about them, by purposely serving him contaminated meals. But as the court put it "The defect is causation." While the prison had served him peanut butter within weeks of two grievances, Vartinelli had not alleged more substantive linkages. During his incarceration, he had filed numerous such complaints and "timing rarely suffices by itself to show causation." The Sixth Circuit affirmed.

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