

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

HARVENS BRUNACHE,	:	CIVIL ACTION
Plaintiff,	:	
	:	NO. 98-6018
v.	:	
	:	
DEPUTY COMMISSIONER OF	:	
ADMINISTRATION COSTELLO,	:	
et al.,	:	
Defendants.	:	
	:	

MEMORANDUM

BUCKWALTER, J.

March 20, 2000

Testimony regarding plaintiff's complaint against defendants James Watson, Gwendolyn Enoch, Michael Casdia, Thomas Costello and the Philadelphia Prison System was heard by this court, which now makes the following findings:

FINDINGS OF FACT

1. On October 12, 1998, plaintiff Harvens Brunache (Brunache) was an inmate at Curran Fromhold Correctional Facility (CFCF).
2. On that day, defendant Correctional Officer Gwendolyn Enoch (Enoch) was working the 3 p.m. to 11 p.m. shift in the quarantine housing area of B-1, pod 4.
3. Shortly after her arrival on the shift, she noted that Brunache's cell, which was designated to be locked, was not.

4. Upon making this discovery, Enoch went to check Brunache's cell and when she approached the steps to his cell block, he ran back into his cell.

5. When Enoch got to the cell, she smelled cigarette smoke and proceeded to search Brunache's cell because smoking was prohibited.

6. When she found the cigarettes, Brunache became angry and challenged her authority and began cussing her.

7. Enoch proceeded with the search, found the cigarettes underneath the mattress, and then secured Brunache in the cell.

8. Enoch was observed by Brunache thereafter going back to her desk and typing into the computer and he saw a photo image on the computer but could not make out that it was his photo.

9. Later that evening, Enoch, with another officer, opened Brunache's cell door to give him his dinner meal.

10. Brunache testified that when Enoch came up to his cell door, she said "I don't have anything for you. I don't have to give you anything, you child-molesting bastard." Later that day, when Brunache was to get medication, he testified that he heard Enoch yell, "Tell that child-molesting mother fucker I don't have to do anything for him."

11. To get attention of a staff member, Brunache then flooded his cell, trying, he testified, to get the attention of a supervisor.

12. Enoch responded to the flooding and when she got to Brunache's cell, he was sitting on top of a table, continuously flushing the toilet, which was stuffed with a sheet or towel.

13. Enoch notified Sergeant Michael Casdia (Casdia) who responded to Brunache's cell.

14. Brunache testified that he told Casdia that Enoch had made the announcements about the charges against him (see 10) and requested protective custody.

15. Although Brunache testified to the contrary, Enoch never told any inmates that he was a child molester (N.T. 77) and Brunache neither requested protective custody nor told Casdia that Enoch announced his charges (N.T. 77; N.T. 103; N.T. 106).

16. On the next day, October 13, 1998, Brunache testified that an inmate block worker named Ronald Swinton said to him, "I didn't know that you was a child-molesting bastard, you fucking child-molesting bastard. You're going to get yours when you come out of this fucking cell."

17. Shortly after this, Brunache testified he was escorted by Correctional Officer Brown from his cell to get medication. He was "jumped" by Ronald Swinton. C.O. Brown and her partner separated the two and Brunache was escorted to medical to be checked (N.T. 98). Both inmates were charged with fighting as a result.

18. Brunache's testimony about this incident with Swinton is considerably different. He testified that the rest of the pod was involved and he was just ducking blows and kicks and punches until he fell unconscious. The Prison Health Services (Pl. Ex. 3a) on examination of Brunache on October 13, 1998 recorded "0 visible injuries noted."

19. It is clear that Brunache went to the medical department on October 13, 1998 sometime after the altercation with Swinton. Sometime after being at the medical department, he returned to his cell.

20. Lt. James D. Watson (Watson) saw him that day and although Brunache testified that he told him he was jumped by a lot of inmates and requested protective custody, Watson denies that either of these matters were conveyed to him.

21. As to the fight, Watson's information was that it was a fight between two inmates (N.T. 122). He also denies that Brunache requested protective custody (N.T. 117). He claims he would have noted that in the comments section of his investigation had it happened (N.T. 115).

22. Watson also did not recall Brunache's telling him that Enoch announced his charges to the pod (N.T. 121).

23. Captain John Russell Beckermeyer, Jr. (Beckermeyer), disciplinary hearing officer, testified that Brunache, after a hearing before him, was found guilty of assault on Swinton (N.T. 138). There is also some evidence that prior to October 13, 1998, namely on October 10, that Brunache had complained about an inmate hitting him dealing in some way with sex crimes (N.T. 136).

24. An inmate by the name of Lionel Thompson testified on behalf of Brunache, by way of deposition. His testimony, while somewhat supportive of Brunache, does not convince me that Brunache is being truthful. Thompson, if Enoch actually made the remarks attributed to her, surely could have testified about that. Instead, he alleges that Enoch merely said, "I'm a grown woman. I am not a little kid like you are in here for." In light of testimony to the contrary and comparing the respective persons testifying, I do not find Thompson's account credible.

CONCLUSIONS OF LAW

It is plaintiff's contention that the defendants recklessly, deliberately and maliciously exposed the nature of his criminal charges, thereby placing him in known danger from his fellow inmates, which ultimately resulted in his being assaulted by another inmate.

The credible testimony provides no factual support for plaintiff's charges. The mere filing of a complaint does not satisfy plaintiff's burden of proof which is to show by a preponderance of the evidence, that is, that it is more likely true than not, that his version of what happened is the correct one.

An order follows.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

HARVENS BRUNACHE,	:	CIVIL ACTION
Plaintiff,	:	
	:	NO. 98-6018
v.	:	
	:	
DEPUTY COMMISSIONER OF	:	
ADMINISTRATION COSTELLO,	:	
et al.,	:	
Defendants.	:	
	:	

ORDER

AND NOW, this 20th day of March, 2000, judgment is entered in favor of defendants James Watson, Gwendolyn Enoch, Michael Casdia, Thomas Costello and the Philadelphia Prison System, and against plaintiff Harvens Brunache.

This case shall be marked CLOSED.

BY THE COURT:

RONALD L. BUCKWALTER, J.