

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

BRUCE BENSINGER,	:	
	:	
Plaintiff,	:	CIVIL ACTION
	:	
v.	:	
	:	
WARDEN DONALD T. VAUGHN ET. AL.,	:	No. 00-CV-5037
	:	
Defendant.	:	

MEMORANDUM and ORDER

Presently before the Court is defendant Donald T. Vaughn’s (“Defendant”) Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6) and plaintiff Bruce Bensinger’s (“Plaintiff”) Response thereto. Plaintiff, a prisoner in a state correctional facility, brings this suit under 42 U.S.C. § 1983 alleging his Eighth Amendment rights were violated because Defendant and others denied him access to mental health treatment. For the reasons set forth below, Defendant’s motion will be granted and Plaintiff’s claim against Defendant will be dismissed.

Defendant is Superintendent of the state correctional facility where Plaintiff resided at the time Plaintiff allegedly was denied treatment. Plaintiff, who is a frequent filer with this Court, asserts no facts in his Complaint linking Defendant to the alleged denial. Plaintiff has merely alleged that he is in need of mental health treatment and that he has been denied access to such treatment.

Defendant argues Plaintiff's claim against Defendant should be dismissed because Plaintiff fails to allege in his Complaint that Defendant had any personal involvement in the alleged denial of mental health treatment. To state a claim under § 1983, a plaintiff must allege the defendant had "personal involvement in the alleged wrongs; liability cannot be predicated solely on the operation of respondeat superior." Rode v. Dellarciprete, 845 F.2d 1195, 1207 (3d Cir. 1988). Generally, personal involvement requires participation in, personal direction of, or knowledge of and acquiescence in the alleged constitutional violation. See Robinson v. City of Pittsburgh, 120 F.3d 1286, 1293 (3d Cir. 1997); Baker v. Monroe Township, 50 F.3d 1186, 1190-91 (3d Cir. 1995). It is also possible to establish § 1983 supervisory liability by showing a supervisor tolerated past or ongoing misbehavior. See Baker at 1191 (citing Stoneking v. Bradford Area Sch. Dist., 882 F.2d 720, 724-25 (3d Cir. 1989)).

In this case, Plaintiff has set forth no specific allegations with respect to Defendant which link Defendant to any denial of treatment or to any potential supervisory liability. Accordingly, Plaintiff's claims against Defendant must be dismissed.

AND NOW, this 17th day of April, 2001, It is hereby **ORDERED** that Defendant's Motion to Dismiss (Docket No. 8) is **GRANTED** and Plaintiff's claim against Defendant is **DISMISSED**.

BY THE COURT:

RONALD L. BUCKWALTER, J.