



failing to handcuff him in accordance with regulations at SCI Graterford. In his motion to amend his complaint, Reaves seeks permission to assert another Eighth Amendment claim against additional defendants for failure to provide adequate medical attention. In his motion for preliminary injunction, Reaves seeks an injunction against the defendants from "harassing and threatening" him based on the allegations alleged in his complaint.

Because the court finds that there are no genuine issues of material fact and that the factual record does not support Reaves' claim that the defendants used excessive force in violation of the Eighth Amendment or that Dombrosky's failure to handcuff Reaves with his hands behind his back violated any of Reaves constitutional rights, defendants are entitled to judgment as a matter of law on all Reaves' claims. Given that the court has granted defendants' motion for summary judgment, Reaves' motion for a preliminary injunction will be denied. Finally, because all claims against all defendants have been dismissed, Reaves' motion to amend the complaint to join additional defendants will be denied as moot.

## I. FACTS<sup>1</sup>

On January 14, 2000, Przybylowski and Dombrosky in the course of their assignments conducted a cell search of Reaves and his cellmate, Otis Henley ("Henley"), a non-party in this action. At the outset of the search, Przybylowski and Dombrosky ordered Reaves and Henley to step outside their cell and undergo handcuffing. Rather than complying with Przybylowski and Dombrosky's order, Reaves questioned why the two officers were searching the cell at that time and also requested an opportunity to speak to a regular officer, such as a lieutenant or sergeant. After further discussion, Reaves and Henley complied with the officers' request to leave the cell. Dombrosky then handcuffed Reaves' hands from the front.<sup>2</sup>

While searching the cell, Dombrosky found a fishing line inside a paper bag containing Henley's personal items. Fishing lines are considered contraband under SCI Graterford's regulations. Thereafter, a confrontation ensued between Przybylowski and Henley, in which Przybylowski grabbed Henley by his shirt with two hands, Henley shoved Przybylowski, and

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<sup>1</sup> The factual record consists of the pleadings, Reaves deposition transcript, and the declaration of Health Care Administrator Julie Knauer. These facts are largely uncontested and for summary judgment purposes viewed in the light most favorable to the plaintiff.

<sup>2</sup> The record is unclear whether Henley was handcuffed at this time. Reaves states that Henley complied to handcuffing after the second request by Przybylowski and Dombrosky. Pl.'s Deposition at 48. Later, Reaves testified that he "wasn't sure" whether Henley was handcuffed. Id. at 61.

Przybylowski held Henley.

As soon as Przybylowski released his hold on Henley, Reaves ran towards where Przybylowski and Henley were standing. Przybylowski grabbed Reaves by the right side of his arm and shoved him out of the way. The shove propelled Reaves towards a wall. Prior to hitting the wall, Reaves raised his hands in order to protect his face. With his hands near his face, plaintiff Reaves' hands collided with the wall. Przybylowski then proceeded to place Reaves in a headlock, which Reaves states "wasn't [an attempt] to try and hurt me," but instead "just a headlock [so] I couldn't get out and [to] keep everything under control." Id. at 75. Soon after, other corrections officers arrived on the scene and the confrontation ended.

Following the incident, Reaves was examined by a nurse. The nurse noted on Reaves' medical incident injury report that "p[atient Reaves] does not remember what happened and appears to have no physical problem." Df.'s Motion, Exhibit C-1, Medical Incident Injury Report. In indicating what type of injury Reaves sustained, the nurse stated "none." Id. The next day, Reaves was taken to the infirmary for x-rays which revealed that he had suffered a hair-line fracture to one of his fingers on his left hand and prescribed 800 milligrams of Motrim for pain. Df.'s Motion, Exhibit C-2, Physicians Order and Progress Note dated January 15, 2000. On January 18, 2000, Reaves was issued a cast. Df.'s Motion, Exhibit C-2, Physicians Order and Progress Note

dated January 18, 2000. On February 17, 2000, the cast was removed and Reaves was given an ace bandage to wear for five days. Df.'s Motion, Exhibit C-2, Physicians Order and Progress Note dated February 17, 2000.

## II. PROCEDURAL BACKGROUND

On June 22, 2000, Reaves filed a complaint pursuant to 42 U.S.C. § 1983, alleging that defendants used excessive force when shoving him against the wall. During his deposition, plaintiff Reaves stated that he was suing Vaughn only because he was the superintendent of SCI Graterford and was in charge of the facility. He also stated that he was suing Dombrosky merely because he handcuffed Reaves from the front, and not from behind his back, as required by SCI Graterford policy. Finally, Reaves stated that he was only suing Przbylowski because he shoved him against the wall which allegedly caused him to suffer the fracture.

In his prayer for relief, Reaves states he was seeking a preliminary and permanent injunction for "harassing and threatening" plaintiff. Pl.'s Complaint (doc. no. 1). He also states that he is only "suing the defendants in their individual capacities and not in their official capacity." Id. Reaves further asserts that he is seeking compensatory damages of \$1 million for mental, psychological, and physical stress from each defendant and punitive damages of \$1 million from each defendant.

On July 11, 2000, pursuant to Rule 15(a) of the Federal Rules of Civil Procedure ("Rule 15"), Reaves filed his first motion to amend his complaint. In his motion, Reaves indicated that he wished to assert a claim for inadequate medical treatment against the medical personnel of SCI Graterford. On August 9, 2000, the court granted leave to Reaves to file an amended complaint by September 8, 2000. On December 21, 2000, the court vacated its order granting leave to file an amended complaint as Reaves never filed the amended complaint.<sup>3</sup> In the same order, the court reinstated Reaves original complaint and granted defendants leave to take the deposition of Reaves.

On April 30, 2001, defendants filed a motion for summary judgment, arguing that there are no genuine issues of material fact and that the factual record does not support an Eighth Amendment claim against any of the defendants and does not support a Section 1983 claim against Dombrosky for failure to handcuff Reaves' hands behind the back. On May 8, 2001, Reaves filed a response to defendants' motion for summary judgment in

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<sup>3</sup> In the order denying plaintiff Reaves' motion for entry of default, the court noted the following:

On August 9, 2000, the court granted plaintiff's motion for leave to amend the complaint directing that the amended complaint was to be filed and served on defendants before September 8, 2000. . . . The docket does not reflect that an amended complaint was ever either filed and/or served upon defendants. Since an amended complaint was neither filed nor served, defendants have no duty to answer.

Order dated November 30, 2000 (doc. no. 14).

which he fails to address defendants' arguments with respect to his Eighth Amendment excessive force claim. Instead, Reaves argues there are sufficient facts to support an Eighth Amendment claim for inadequate medical treatment. On July 2, 2001, Reaves filed an amended brief in opposition to defendants' motion for summary judgment. In his amended brief, plaintiff Reaves argues that the factual record, which he does not appear to question, supports a finding that defendants' used excessive force in violation of the Eighth Amendment.

On the same day Reaves filed his amended brief, he also filed a motion for a preliminary injunction and a motion for leave to file an amended complaint. In his motion for a preliminary injunction, he reasserts the allegations contained in his original complaint and requests an unspecified preliminary injunction be issued against the defendants. In his motion to amend, Reaves seeks to include an allegation that he was denied adequate medical care by the nurse who initially examined his hand and by the prison authorities who dismissed his grievance and his appeal to that dismissal.

### III. LEGAL ANALYSIS

#### A. Legal Standard

Summary judgment is appropriate if the moving party can "show that there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law."

Fed. R. Civ. P. 56(c). When ruling on a motion for summary judgment, the court must view the evidence in the light most favorable to the non-movant. See Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986). The court must enter summary judgment against a non-moving party who fails to make a factual showing sufficient to permit a reasonable jury to find an element essential to that party's case, and on which that party will bear the burden of proof. See Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986). Evidence that is "merely colorable" or "not significantly probative" will not defeat the motion. Anderson v. Liberty Lobby Inc., 477 U.S. 242, 255 (1986); Colburn v. Upper Darby Township, 946 F.2d 1017, 1020 (3d Cir. 1991).

B. Plaintiff Reaves' Eighth Amendment Claim

The Supreme Court has stated that it is a "settled rule" that "'the unnecessary and wanton infliction of pain . . . constitutes cruel and unusual punishment forbidden by the Eighth Amendment.'" Hudson v. McMillan, 503 U.S. 1, 5 (1992) (quoting Whitley v. Albers, 475 U.S. 312, 319 (1986)). "What is necessary to establish an 'unnecessary and wanton infliction of pain,' . . . , varies according to the nature of the alleged constitutional violation. Id. "[W]henever prison officials stand accused of using excessive physical force in violation of the Cruel and Unusual Punishment Clause, the core judicial inquiry is that set

out in Whitley: whether force was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm." Id. at 6-7. The Court noted several factors in considering whether or not an inmate was a victim of excessive force: (1) the extent of injury suffered by the inmate; (2) the need for application of force; (3) the relationship between that need and the amount of force used; (4) and the threat reasonably perceived by the prison officials and any efforts to temper the severity of a force applied against the inmate. Id. at 7. Furthermore, the Court indicated that "the Eighth Amendment's prohibition of 'cruel and usual punishments necessarily excludes from constitutional recognition de minimis uses of physical force, provided that the use of force is not of a sort repugnant to the conscience of mankind.'" Id. at 9-10 (quoting Whitley, 475 U.S. at 327). However, as the Third Circuit has explained in assessing the minimum amount of injury necessary to make out a claim for wanton infliction of force, "[a]lthough the extent of the injury provides a means of assessing the legitimacy and scope of the force, the focus always remains on the force used (the blows)." Brooks v. Kyler, 204 F.3d 102, 108 (3d Cir. 2000).

1. Defendant Vaughn

Because personal involvement is required in order to state a valid claim for deprivation of a constitutional right

under section 1983, see Rode v. Dellarciprete, 845 F.2d 1195, 1207 (3d Cir. 1988), the factual record does not support an excessive force violation against Vaughn. The factual record demonstrates that Vaughn did not personally search Reaves' cell, did not use any force against Reaves, and did not personally acquiesce in Dombrosky and Przybylowski's alleged wrongful conduct. Therefore, Vaughn cannot be found liable for violating Reaves' Eighth Amendment rights. Reaves apparently attempts to avoid this conclusion by stating that Vaughn's liability stems from the fact that he is the superintendent of SCI Graterford and, therefore, is in charge of the correctional officers in the facility. However, the mere fact that a named defendant is in a supervisory position is insufficient to establish liability under Section 1983, as the doctrines of vicarious liability or respondeat superior do not apply to Section 1983 claims. See C.H. ex rel. Z.H. v. Oliva, 226 F.3d 198, 201-02 (3d Cir. 2000) (citations omitted).

## 2. Defendant Dombrosky

Because Dombrosky never used any force against Reaves, he can only be found liable for an excessive force claim if Reaves establishes that Dombrosky was both aware of the assault on Reaves and had an opportunity to stop the assault, but failed to do so for the purpose of causing Reaves harm. Beers-Capital v. Whetzel, -- F.3d --, 2001 WL 640713, \*7 (3d Cir. 2001).

However, by Reaves' own testimony, Dombrosky was not observing the events outside plaintiff Reaves' cell nor was he aware of what was taking place outside of the cell. It was not until he heard an officer cry "fight, fight" that he exited the cell and assisted Przybylowski by restraining Henley. Based on this conduct, Reaves has not provided any facts that Dombrosky possessed a malicious and sadistic intent in the actions he took with respect to Przybylowski's conduct towards Reaves.

### 3. Defendant Przybylowski

Despite Reaves' claim that Przybylowski used excessive force for the purpose of causing him harm, Reaves own testimony makes clear that Przybylowski did not possess a malicious and sadistic intent when he shoved Reaves against the wall. First, Reaves repeatedly defied Dombrosky and Przybylowski's authority when they ordered Reaves and Henley to exit the cell and submit to handcuffing. Second, immediately prior to the shove used by Przybylowski against Reaves, he had just been pushed backward by Henley, and had another inmate, Reaves, running towards him. In fact, shoving Reaves against the wall once, from a few feet away with his bare hands, was a measured response, no greater than necessary to neutralize the potential threat from Reaves, causing minimal injury to Reaves. Under such circumstances, it was reasonable for Przybylowski to use limited physical force sufficient to reestablish control over an escalating conflict.

In sum, given that the force used by Przybylowski was not excessive in light of the situation he confronted, Reaves has failed to demonstrate that Przybylowski demonstrated a malicious and sadistic intent necessary for establishing a violation of his Eighth Amendment rights.<sup>4</sup>

C. Reaves' Claim Against Defendant Dombrosky for Violating Prison Rules Regarding Handcuffing

Reaves' claim against Dombrosky alone for failing to handcuff him with his hands behind his back in accordance to Pennsylvania Department of Corrections policy fails as a matter of law. At his deposition, the only grounds that Reaves gave for such a claim was his assertion that, if he was required to follow the rules of SCI Graterford, then Dombrosky must also follow such rules. Reaves in no manner suggested that such handcuffing was done in order to cause harm. In fact, when asked about his handcuffing, Reaves conceded that it is less constraining for an inmate to be handcuffed with the hands in his front than behind

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<sup>4</sup> Defendants also argued that they are entitled to Eleventh Amendment immunity with respect to any damages plaintiff Reaves seek against them in their official capacities. Plaintiff Reaves, however, specifically states in his complaint that he is only seeking compensatory and punitive damages against the individual defendants in their individual, not their official, capacities. Furthermore, defendants argue that they are entitled to qualified immunity with respect to plaintiff Reaves' Eighth Amendment claims. Given that qualified immunity is an affirmative defense to valid claims brought under Section 1983, the court does not need to consider whether qualified immunity applies in this case as the court has dismissed on the merits all of Reaves' claims against all the defendants.

his back. Pl.'s Dep. at 50. However, an inmate does not have a viable Section 1983 claim based solely on a prison official's failure to adhere to a prison regulation, directive or policy statement. See Elkin v. Fauver, 969 F.2d 48, 52 (3d Cir. 1992); see also Patterson v. Coughlin, 761 F.2d 886, 891 (2d Cir. 1985).

D. Plaintiff Reaves' Motion for Preliminary Injunction

Because Reaves' cannot satisfy the standard for a preliminary injunction, the court denies Reaves' motion. In order for a court to grant a motion for a preliminary injunction, a plaintiff must demonstrate a likelihood of success on the merits. Bieros v. Nicola, 857 F.Supp. 445, 446 (E.D.Pa. 1994) (citing Frank's GMC Truck Center, Inc. v. GMC, 847 F.2d 100, 103 (3d Cir. 1988); ECRI v. McGraw-Hill, Inc., 80-9 F.2d 223, 226 (3d Cir. 1987)). Given that the court has determined that plaintiff Reaves cannot succeed on the merits, the court denies plaintiff Reaves' motion for a preliminary injunction.

E. Plaintiff Reaves' Motion to Amend His Complaint

Because the court has dismissed all claims against all defendants, Reaves' motion to amend his complaint will be denied as moot. In reaching this conclusion, the court notes that Reaves was previously granted an opportunity to amend his complaint to add additional defendants and assert a claim for inadequate medical care but failed to file such amended complaint

within the deadline set by the court.

#### IV. CONCLUSION

Because the undisputed factual record does not support an Eighth Amendment claim for excessive force against the three defendants, the court grants defendants' motion for summary judgment on this claim. Furthermore, because Reaves does not have a cognizable claim under Section 1983 against Dombrosky for failing to handcuff him in the front, the court also grants defendants' motion for summary judgment on this claim. Given that summary judgment has been granted on all Reaves' claims, the court denies his motion for preliminary injunction. Finally, because all claims against all defendants have been denied, plaintiffs' motion to amend his complaint to add additional defendants is moot.

And appropriate order follows.

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

ANTWINE REAVES : CIVIL ACTION  
 : NO. 00-2786  
Plaintiff, :  
 :  
v. :  
 :  
DONALD T. VAUGH, et al. :  
 :  
Defendants. :

ORDER

AND NOW, this 10th day of August, 2001, upon consideration of defendants' motion for summary judgment, plaintiff's motion for preliminary injunction, and plaintiff's motion for leave to amend his complaint, it is hereby **ORDERED** that:

1) Defendants' motion for summary judgment (doc. no. 18) is **GRANTED**;

2) Plaintiff's motion for preliminary injunction (doc. no. 22) is **DENIED**;

3) Plaintiff's motion for leave to amend his complaint (doc. no. 21) is **DENIED**.

4) Plaintiff's oral motion for appointment of counsel is **DENIED**;<sup>5</sup>

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<sup>5</sup> During the telephone hearing on the motions, Reaves reinstated a request for appointment of counsel. Under the teachings of Tabron v. Grace, 6 F.3d 147, 156 (3d Cir. 1993), before appointing counsel, the court must consider several factors, including the relative merit of the complaint, the complexity of the legal issues, and the difficulty of procuring discovery. In this case, which has little merit, there are

AND IT IS SO ORDERED.

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EDUARDO C. ROBRENO, J.

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neither complex legal or factual issues nor additional discovery that needs to be obtained. Therefore, the court denies Reaves motion for appointment of counsel.