

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

RONALD WESLEY : CIVIL ACTION  
Plaintiff, :  
 :  
v. :  
 :  
DONALD T. VAUGHN, et al :  
Defendants. : No. 99-1228, 99-1229

MEMORANDUM ORDER

J. M. KELLY, J.

AUGUST 20, 2002

Presently before the Court is a Motion To Dismiss Plaintiff's Second Amended Complaint in Civ. A. No. 99-1229 filed by Defendants. Ronald Wesley, a prisoner currently incarcerated at the State Correctional Institution at Graterford ("Graterford"),<sup>1</sup> filed separate civil suits, Civ. A. No. 99-1228 and Civ. A. No. 99-1229, against numerous prison officials, alleging civil rights violations and failure to reasonably accommodate his medical condition in violation of the Americans With Disabilities Act (ADA). As both suits deal with Wesley's asthma condition and involve common legal questions, these two actions were consolidated for all purposes, including discovery and trial, on April 3, 2001.

Wesley has been attempting to amend his complaint in Civ. A. No. 99-1229. In June of 2002, this Court dismissed Wesley's first Amended Complaint because it was a rambling 125 paged

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<sup>1</sup> Presently, Plaintiff is housed in Graterford's L-unit, the Restricted Housing Unit ("RHU"), serving disciplinary time until April 21, 2003.

document with numerous exhibits. In his attempt to comply with Federal Rule of Civil Procedure 8(a), Wesley filed a second Amended Complaint, which is forty-some pages long. He also attached a voluminous set of exhibits.

Despite the improvement in length over the first Amended Complaint, Wesley's second Amended Complaint is still not a "short and plain statement" of his claims as required under Rule 8(a). As in the first Amended Complaint, Wesley improperly asserts wholly new claims and names seventeen additional Defendants<sup>2</sup>. In the original complaint filed under Civ. A. No. 99-1229, Plaintiff asserted that the Defendants violated his rights under the Constitution and the ADA by placing him in a cell that lacked proper ventilation and assigning him cell mates who were heavy smokers even though the Defendants knew of his asthmatic condition. Wesley's amended complaints include wholly new allegations of medical malpractice and negligence and challenge prison disciplinary proceedings, the use of force against him, and the denial of parole by the Pennsylvania Board of Probation and Parole. Moreover, Wesley improperly pleads

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<sup>2</sup> It appears these additional Defendants have not been properly served. Moreover, the claims against these additional defendants do not rise out of the same transaction, occurrence, or series of transactions or occurrences as the claims advanced against the originally named defendants. Moreover, there is no shared question of law common to all Defendants. As such these individuals are improperly joined under Federal Rule of Civil Procedure 20(a).

evidence.

Rather than allowing Wesley to file a third amended complaint, the Court will reinstate the original complaint filed in Civ. A. No. 1229. Accordingly, the Court **DIRECTS** the Clerk of the Court to enter the following:

1. Defendants' Motion to Dismiss Plaintiff's Second Amended Complaint (Doc. No. 35 in Civ. A. No. 99-1229) is **GRANTED**.
2. Plaintiff's Second Amended Complaint (Doc. No. 36 in Civ. A. No. 99-1229) is **DISMISSED**.
3. Plaintiff's original complaint in Civ. A. No 99-1229 is **REINSTATED**.
4. Plaintiff is **PRECLUDED** from filing further amendments to the complaint in Civ. A. No. 99-1229 without prior permission from this Court.

BY THE COURT:

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JAMES MCGIRR KELLY, J.