

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

JAMES EDWARD BROOKS, III : CIVIL ACTION
: :
: :
: :
V. : :
: :
: :
LAWRENCE V. ROTH, WARDEN, : NO. 00-CV-3192
et al. :

ORDER

AND NOW, this 19th day of July, 2001, upon consideration of the defendants' motion to dismiss and plaintiff's response thereto, it is hereby **ORDERED** and DECREED that the motion is GRANTED for the following reasons.

The plaintiff James Brooks, alleges that his constitutional rights were violated when he was placed in restrictive housing for one week after having been falsely accused of a violation of prison rules. He demands \$50,000 in damages. The defendants have moved to dismiss the complaint pursuant to Fed.R.Civ.P. 12(b)(6).

Brooks has failed to state a claim upon which relief can be granted, because placement in restricted housing does not implicate a protected liberty interest under the Fourteenth Amendment. In Sandin

v. Conner, the Supreme Court addressed the liberty interests of a prisoner, who was placed in disciplinary segregation for a period of thirty days and held that the plaintiff's "discipline in segregated confinement did not present the type of atypical, significant deprivation in which a **State** might conceivably **create** a liberty **interest.**" 515 U.S. 472, 485-6 (1995). The Third Circuit relied on Sandin in holding that a prisoner, who had been placed in **administrative** custody for a period of 15 months based on allegations that he had raped a corrections **officer**, did not have a cause of action under the Fourteenth Amendment. Griffin v. Vaushn, 112 F.3d 703, 706 (3d Cir. 1997).

Several Judges of this Court have held that periods of disciplinary confinement far longer than one week do not implicate liberty interests under the Fourteenth Amendment and therefore do not give rise to an entitlement to due process protections. See Smith v. Luciani, 1998 WL 151803 (E.D.Pa. March 31, 1998) (seven month period of confinement did not implicate prisoner's liberty interest); Rauso v. Vaushn, 2000 WL 873285 at *7 (E.D.Pa. June 26, 2000) (60 day period in restricted housing unit was "within expected parameters of his sentence and implicated no due process rights").

In a case similar to the instant case, the Honorable James McGirr Kelly stated:

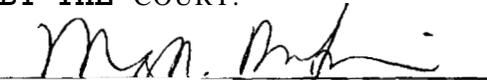
Discipline, including segregation, does not constitute an atypical deprivation that would create a liberty interest

under the Due Process Clause. Furthermore, Pennsylvania has no recognized liberty interest in prisoner placement. Rather, placement is a matter of prison administration, and a prisoner has no right to be placed in a particular cell or housing unit. Consequently, Plaintiff has no liberty interest in his cell placement and was not entitled to due process, such as notice and the opportunity to be heard, prior to placement in isolation.

Anderson v. Horn, 1997 WL 152801 at *8 (E.D.Pa. March 28, 1997).

This Court holds that Brooks' confinement in restricted housing for approximately one week did not deprive him of a constitutional right or trigger due process protections under the Fourteenth Amendment.¹ The defendants' motion to dismiss is therefore granted.²

BY THE COURT:


Mary A. McLaughlin, J.

¹ The Court notes that Brooks was, in fact, afforded a hearing in the instant case,

² In his response to the defendants' motion to dismiss, the plaintiff stated that he wished to add several defendants. The addition of defendants would not change the Court's analysis. The Court's decision that Brooks has failed to state a claim upon which relief may be granted under Rule 12(b) (6) would apply equally to these new defendants.

nailed 7/19/01 to:
James Brooks III
Prisoner in ...