

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

WILLIE L. YOUNG, :
Plaintiff, : CIVIL ACTION
v. :
J.T. MEDDEN, et al., :
Defendants : NO. 03-5432

MEMORANDUM AND ORDER

McLaughlin, J.

February 23, 2006

The plaintiff alleges almost daily wrongdoing by at least 67 prison employees, including 26 who are named defendants, at two prisons. The plaintiff has also sued the Pennsylvania Department of Corrections, SCI-Graterford and SCI-Huntingdon.

The Court reads the plaintiff's complaint and subsequent filings to allege: (1) a violation of the plaintiff's Eighth Amendment rights based on allegations of physical assaults, verbal harassment, claims that substances were placed in the plaintiff's food and unsanitary conditions of confinement; (2) a violation of the plaintiff's Fourteenth Amendment rights based on allegations that prison officials did not respond to the plaintiff's grievances and mistreated the plaintiff on the basis of his race and religion; (3) a violation of the plaintiff's First Amendment rights based on claims of retaliation, denial of access to the courts and mishandling of the plaintiff's personal mail; (4) a violation of the plaintiff's First Amendment rights and rights under the Religious Land Use and Institutionalized

Persons Act based on allegations of interference by prison officials with the plaintiff's ability to practice his religion; (5) a violation of the plaintiff's Fourth and Fourteenth Amendments rights based on allegations that prison officials mishandled the plaintiff's personal property; and (6) a violation of the plaintiff's Fourth Amendment rights based on allegations that prison officials secretly monitored the plaintiff's cell with electronic surveillance.

The Court concludes that the following claims will be dismissed: (1) all of the plaintiff's claims against the Department of Corrections, SCI-Graterford and SCI-Huntingdon, as well as claims for money damages against all of the defendants in their official capacity; (2) all of the plaintiff's claims for compensatory damages that are based solely on allegations of mental or emotional injury; (3) the plaintiff's claim under the Eighth Amendment that Officer Quick physically assaulted the plaintiff by spitting on him; (4) claims under the Eighth Amendment that prison officials verbally harassed or threatened the plaintiff that are not linked to any other wrongdoing by prison officials; (5) claims under the Fourteenth Amendment that prison officials did not properly respond to the plaintiff's grievances and requests; (6) claims under the Fourth and Fourteenth Amendments that the plaintiff's personal property was mishandled; and (7) claims under the Fourth Amendment that prison

officials secretly placed electronic surveillance in the plaintiff's cell.

The Court concludes that the following claims will go forward: (1) the plaintiff's Eighth Amendment claims based on allegations that certain prison officials physically assaulted the plaintiff (except for the claim that Officer Quick spit on the plaintiff), placed substances in the plaintiff's food and forced the plaintiff to live in an unsanitary environment; (2) the plaintiff's Fourteenth Amendment claims that certain prison officials mistreated the plaintiff on the basis of his race and religion; (3) all of the plaintiff's First Amendment claims; and (4) all of the plaintiff's claims under the Religious Land Use and Institutionalized Persons Act based on allegations that certain prison officials interfered with his ability to practice his religion.

I. Procedural History

The plaintiff filed his initial complaint on June 25, 2004 against only Lt. Medden, Officer Wright, Superintendent Vaughn and Officer Chickcoviact. In that complaint, the plaintiff alleged that while he was an inmate at SCI-Graterford, Lt. Medden, Officer Wright and Officer Chickcoviact assaulted him on January 8, 2003. Later, Lt. Medden was assigned to investigate the incident. Based on these allegations, the

plaintiff asserted that his Eighth and Fourteenth Amendment rights were violated. On October 20, 2004, the defendants filed a motion to dismiss. On January 7, 2005, that motion was granted as to Superintendent Vaughn and denied as to the other defendants. Also on January 7, 2005, the Court denied the plaintiff's request for a temporary restraining order.

On February 18, 2005, the plaintiff filed another complaint in case number 05-773. The plaintiff amended that complaint and on March 31, 2005, the Court consolidated case number 05-773 with this case and all of the other defendants reflected on the docket were added. The Court also ordered that the two complaints would be consolidated and together would function as the operative pleading in this case.¹

The plaintiff filed another request for a temporary restraining order on April 8, 2005. The defendants responded to the consolidated complaint with a partial motion to dismiss on August 12, 2005. The defendants filed a response in opposition to the plaintiff's request for a temporary restraining order on August 15, 2005. On August 15, 2005, the defendants also filed an amended partial motion to dismiss.² The plaintiff responded

¹ Following the March 31, 2005 Order, the plaintiff filed two tracking sheets which made additional factual allegations that the Court will also consider in this Memorandum and Order.

² Because the defendants filed an amended partial motion to dismiss with respect to the consolidated complaint, the defendants have not filed a responsive pleading to any of the

to both filings by the defendants on August 31, 2005.

Currently there are two pending motions, the defendants' amended partial motion to dismiss and the plaintiff's request for a temporary restraining order. The plaintiff has also filed two tracking sheets that describe claims of wrongdoing by prison officials, some of whom are named defendants but many of whom are not. The Court will also consider the factual allegations made in these tracking sheets.

II. Factual Overview³

The plaintiff's allegations are wide ranging and at times difficult to understand. At this stage of the proceedings, the Court must accept as true any factual allegation made by the plaintiff. Furthermore, the plaintiff has made numerous allegations stating that he thinks a prison official did something to him. At this stage, the Court will treat such claims as if they actually happened.

The Court will describe the plaintiff's factual allegations in nine steps. Specifically, the Court will describe

plaintiff's factual allegations.

³ In this section, the Court will describe allegations made by the plaintiff against both defendants and prison employees who are not named as defendants. Although the Court will not consider allegations made against non-defendants as legal claims, they are discussed here to give an overview of the breadth of the wrongdoing alleged by the plaintiff.

the plaintiff's allegations: (1) of physical assaults by the guards; (2) that prison officials refused to give the plaintiff medical attention or forced the plaintiff to take medicine against his will; (3) of verbal harassment and threats by prison officials; (4) that prison officials failed to properly respond to the plaintiff's grievances; (5) of disparate treatment based on both race and religion; (6) that he was improperly placed in a restricted housing unit; (7) that he was retaliated against; (8) that he was denied access to the courts; and (9) regarding miscellaneous claims made by the plaintiff. These miscellaneous claims consist mostly of invasion of privacy and improper confiscation of property. Finally, for each part, the Court will discuss the allegations of misconduct at SCI-Graterford and Huntingdon separately. The plaintiff was moved from SCI-Graterford to SCI-Huntingdon on or about April 13, 2004.

A. Physical Assaults

1. SCI-Graterford

The plaintiff was involved in four physical altercations while at SCI-Graterford. First, on January 17, 2001, Officer Quick insulted the plaintiff. In response, the plaintiff spit at Officer Quick and then Officer Quick spit back at the plaintiff.

Second, on November 20, 2003, Officer Silver and

another unknown officer escorted the plaintiff to a receiving room prior to transporting him to the Montgomery County Courthouse. Officer Silver then made a comment about a statement the plaintiff made to a prison supervisor. The plaintiff insulted Officer Silver and Officer Silver responded by slamming the plaintiff's face into a brick wall. This caused injury to the right side of the plaintiff's face. Officer Silver then dragged the plaintiff up some steps. The plaintiff was handcuffed during this entire incident.

Third, on January 17, 2004, Lt. Medden and Officer Andrews escorted the plaintiff to a room so that a DNA test could be done. While the test was being done, Officer Andrews began to choke the plaintiff and pull his hair. When the plaintiff was escorted out of the room, Officer Silver hit the plaintiff with a towel. This caused the plaintiff to react, and Officer Andrews used the plaintiff's movement as an excuse to push the plaintiff to the floor, then up against a wall. Officer Andrews then pulled the plaintiff's hair again. No nearby officers intervened. At the time, the plaintiff was restrained in handcuffs and leg irons. Lt. Medden finally told Officer Andrews to stop pulling the plaintiff's hair.

Fourth, in either late March or early April of 2004, there was a physical altercation between Lt. Randle and the plaintiff. The plaintiff has not provided a description of this

incident. He referred to a misconduct report, but that misconduct report was not attached to the complaint.

2. SCI-Huntingdon

The plaintiff alleges he was physically assaulted two times at SCI-Huntingdon. First, on December 9, 2004, Officer Hand gave the plaintiff a slight push in the back in an attempt to provoke him. This was reported to a Lt. McCoughly. Second, on February 18, 2005, Officer Synder, pushed the plaintiff while escorting him back into his cell in an attempt to provoke the plaintiff. The plaintiff was handcuffed at the time.

B. Claims of Failure to Provide Medical Care and Forcing the Plaintiff to Take Medicine and Other Substances Against His Will

1. SCI-Graterford

The plaintiff alleges that while he was an inmate at SCI-Graterford, on a continuous basis, certain defendants (it is unclear which ones) said they had spit or placed foreign substances in the plaintiff's food or medication.

2. SCI-Huntindon

The plaintiff alleges that prison officials placed things (often medicine) in his food. There are also allegations that prison staff refused to give the plaintiff medical treatment

at SCI-Huntindon.

The plaintiff has made numerous allegations of prison officials placing things in his food or telling him things were in his food. On July 13, 2004, Officer Killinger said that an unknown officer placed something in the plaintiff's food that would make him urinate in order to control the plaintiff's kicking. On July 21, 2004, an unknown officer made a similar comment and on October 8, 2004, Officer Hand also made similar comments. On November 24, 2004, Officer Jones said he placed something in the plaintiff's food to make the plaintiff urinate. On December 15, 2004, Nurse Hylee said that she had placed medicine in the plaintiff's food because he had refused to take his medicine willingly. On March 11, 2004, Sgt. House said he would stop placing things in the plaintiff's food to cause him to urinate, but Sgt. House was not telling the truth. Finally, either Officer Windel or Creamer indicated that chewing tobacco was being put in the plaintiff's food.

The plaintiff has also alleged that prison employees have refused him medical treatment. On December 27, 2004, Ms. Areman said she would not treat a rash that the plaintiff had because the plaintiff throws things at officers. The plaintiff and Ms. Areman then exchanged racial insults. On July 29, 2005, Dr. Aranda refused to give the plaintiff treatment for his urination problems because she claimed the plaintiff assaults

officers.

C. Verbal Harassment and Threats

The plaintiff alleges that dozens of different prison officials at both SCI-Graterford and Huntingdon verbally harassed and threatened him. Most of the plaintiff's allegations consist of prison officials insulting him personally, insulting his family, giving out the names and addresses of his family members, discussing the contents of his personal mail and discussing the details of his criminal convictions. These allegations range from prison officials muttering something under their breath to making threats over the prison loudspeaker.

1. SCI-Graterford

The plaintiff alleges that prison officials continuously insulted the plaintiff personally and insulted his family. Officer Quick yelled out comments about the plaintiff's family almost daily from late 2000 into early 2001 and also spoke about the plaintiff's murder conviction including information regarding the plaintiff's victim and family.

On a continual basis, Lt. Randle and Officers Medaz, Clark, Andrews, Campbell, Thomas and others called out the names and addresses of the plaintiff's family. Lt. Randle was one of the worst offenders. The defendants did this knowing the

plaintiff was surrounded by individuals who were hostile to him. These same defendants told the plaintiff he was being harassed since the prison staff were all relatives of his victim.

Also on a continual basis, unnamed staff members created a game in which every time the plaintiff had an altercation with an inmate or staff member, the plaintiff's mail was given to the other inmate or the contents of the plaintiff's mail was divulged. This mail generally came from the plaintiff's family or his spiritual advisor.

Finally, on an unknown date, Lt. Randle stated over the prison intercom that the plaintiff was marked for death and that Lt. Randle wanted the plaintiff's daughters killed. Lt. Randle also gave out the addresses of the plaintiff's daughters.

2. SCI-Huntingdon

The plaintiff alleges at least 58 separate incidents of verbal harassments and threats while at SCI-Huntingdon. This number does not include dozens of additional allegations of harassment where the plaintiff was unable to identify the prison officials that harassed him. Instead of describing all of those incidents here, the allegations that relate to named defendants will be included in the next section of this Memorandum which describes what each defendant is alleged to have done to the plaintiff.

D. Failure to Respond to and Obstruction of Grievance Reports

The plaintiff alleges numerous instances where prison officials have either failed to respond to his grievances or have actively obstructed his ability to file grievances.

1. SCI-Graterford

Most of the plaintiff's allegations consist of claims that prison officials failed to respond appropriately to claims made by the plaintiff that he was being mistreated.

On a continuous basis, the plaintiff informed prison employees, including Deputy Laranzo, Deputy Arolyo, Deputy and later Superintendent Digulielmo, Major Bizzared, Grievance Coordinator Hatcher, Lt. Robenson, Lt. Johnson, Lt. Medden and other unknown prison officials of his allegations of wrongdoing by prison staff. However, these officials did not stop the abuse suffered by the plaintiff at SCI-Graterford. At one point, Superintendent Vaughn told the plaintiff to stop getting misconducts and did not address his requests for aid. The plaintiff also complained to Grievance Coordinator Hatcher about Lt. Randle and had Hatcher responded, the altercation with Lt. Randle could have been prevented.

In addition to failing to respond to grievances, Grievance Coordinator Hatcher told the plaintiff to stop harassing staff with his grievances and placed the plaintiff on

grievance restrictions. Finally, the plaintiff was not given a hearing prior to his transfer to SCI-Huntingdon.

2. SCI-Huntingdon

Prison officials failed to respond to the plaintiff's grievance requests and actively obstructed his ability to pursue his grievances at SCI-Huntingdon as well. At Huntingdon, the plaintiff requested that the program review committee stop the harassment he was undergoing and allow him proper access to the law library. Instead of responding to these requests, a Mr. J. Keller submitted a report saying that the plaintiff was problematic. Lt. Wilts also knew about the harassment at Huntingdon and did nothing about it. On August 4, 2004, when the plaintiff complained about his legal mail being read aloud by Sgt. Shoemaker, no action was taken. The plaintiff also complained about the abuse he was suffering to Superintendent Grace, but the abuse did not stop.

Officials at Huntingdon also obstructed the plaintiff's ability to pursue his grievances. Captain Attamanshafer told the plaintiff that to prove he was being harassed, he would need a staff member to verify the incident. However, prison officials often teamed up against the plaintiff. On August 24, 2004, Lt. Wilts spoke with Officer Hand and said everyone took his side for one of the plaintiff's grievances. On July 11, 2005, Officer

Hample told the plaintiff that he knew nothing would happen when the plaintiff filed a grievance.

Additionally, the plaintiff's grievances were blocked on December 1, 2004 and on December 24, 2004. A grievance the plaintiff filed on November 2, 2004 was lost. On September 13, 2004, Sgt. Shoemaker told the plaintiff that his grievance was worthless.

E. Interference with Religion

The plaintiff alleges numerous incidents of prison officials interfering with his ability to practice his religion which is African Traditional Spirituality.

1. SCI-Graterford

The only allegation that prison officials interfered with the plaintiff's religion at SCI-Graterford is that the plaintiff claims unnamed staff insulted him about his religious beliefs on a continuous basis. Unnamed staff called the plaintiff's religion "voodoo" and told the plaintiff that SCI-Graterford was a Christian and Muslim institution.

2. SCI-Huntingdon

The plaintiff has made numerous allegations of mistreatment on religious grounds while he was an inmate at SCI-

Huntingdon.

The plaintiff's allegations of interference with his ability to practice his religion fall into three categories. First, the plaintiff claims that certain defendants insulted his religion. On May 11, 2005, Officer Hand talked about some of the plaintiff's religious jewelry over the prison loudspeaker. On September 24, 2004, Sgt. House and Lt. Wilts said that the plaintiff's religion is not wanted here because they are against voodoo. On October 3, 2004, Sgt. House made another negative comment about the plaintiff's religion. On October 18, 2004, anti-religious comments were made by Lt. Wilts and other unknown staff members. On October 31, 2004, Officer Dawson made fun of the plaintiff's religion. On January 19, 2005, an unknown prison employee remarked that "voodoo" is not wanted at the prison. On March 11, 2005, Nurse Yvone made a remark about the plaintiff's request for a spiritual advisor.

Second, the plaintiff alleges that the prison staff at SCI-Huntingdon divulged the contents of his correspondence to religious advisors and religious groups. On September 28, 2004, an unknown staff member told the plaintiff he would not receive any correspondence from certain religious groups. On November 18, 2004, either Officer Windal or Creamer collected a money slip that the plaintiff had submitted to donate money to a religious organization. Instead of placing the slip in the mailbox, the

officer read the note that the plaintiff had written out loud. On December 18, 2004, unknown prison staff members spoke out loud about how much money the plaintiff had donated to religious charities. Lt. McConaughey, who was on duty at the time, did not stop this from occurring. On August 7, 2005, unknown prison staff members divulged a request for information that the plaintiff had made to a religious institution. Finally, on August 10, 2005, unknown staff members read a letter to the plaintiff from a religious institution.

Third, the plaintiff claims that certain defendants refused the plaintiff access to his religious property. On December 5, 2004, Lt. Wilts, Sgt. House and Officers Parks and Hand refused to give the plaintiff access to his religious property. On February 26, 2005, Sgt. House said that the plaintiff will get his religious material once prison officials are done with it.

F. Disparate Treatment based on Race and Religion

1. SCI-Huntingdon

The plaintiff has made claims of disparate treatment based on his race and religion. On September 8, 2004, after a conversation with a Nurse Annie, an unknown staff member told the plaintiff that he should not speak to white women like that. This conduct was allowed by Lt. Wilts. On September 9, 2004,

Sgt. House, who is African-American, said that he is harassing the plaintiff so that it does not look like racism. On September 17, 2004, Officer Younker called the plaintiff a racial epithet and on September 24, 2004, Lt. Wilts did the same thing. On October 18, 2004, Lt. Wilts and other unknown prison staff made comments of a racial nature to the plaintiff. On both July 27 and 28, 2005, unnamed staff members called the plaintiff a racial epithet.

Additionally, the allegations that certain prison officials interfered with the plaintiff's ability to practice his religion could also be read to allege disparate treatment on religious grounds.

G. Restrictive Housing Unit Assignments

1. SCI-Graterford

From January 17, 2001, through April 12, 2004, the plaintiff alleges that he was placed in restrictive housing units ("RHU"). He claims that he was placed in RHU because of misconduct reports that resulted from the harassment and abuse he suffered. Furthermore, the plaintiff was constantly moved from one RHU cell block to another so that the prison staff could get a rest.

H. Retaliation

1. SCI-Huntingdon

Much of what the plaintiff claims to be unconstitutional retaliation are simply claims that prison employees responded to different misconducts by the plaintiff. However, the plaintiff has made several claims of wrongdoing by certain prison employees in retaliation for requests or grievances that the plaintiff filed while at SCI-Huntingdon.

On August 1, 2004, Officer Hand said that the plaintiff would not get his property for another month because he filed a grievance. On August 25, 2004, Officer Fisher stated that the plaintiff was only allowed seven books because the plaintiff had been filing grievances. Also on August 25, 2004, Officer Kissell gave out the address of the plaintiff's daughter because the plaintiff had been requesting things. On October 1, 2004, after the plaintiff spoke by phone with an attorney, an unnamed officer became upset over what the plaintiff said on that call and called out the addresses of the plaintiff's daughters. This officer was soon joined by other unnamed members of the prison staff. Lt. Wilts did nothing to stop this. On October 19, 2004, the plaintiff finally got the property that prison employees were holding, but it was covered in pepper-spray and rat feces. Officer Hand said that this was done for retaliatory reasons.

On January 26, 2005, the plaintiff was denied

commissary for requesting that Sgt. House not comment on his criminal conviction. On June 29, 2005, the plaintiff was charged for commissary items he did not order by unnamed prison staff in retaliation for filing grievances. On March 13, 2005, the plaintiff was moved to a dirty cell in retaliation for filing grievances. On March 28, 2005, Officer Youisker threw the plaintiff's toilet paper away to teach him a lesson about filing grievances.

I. Access to the Courts

1. SCI-Huntingdon

The plaintiff's access to the courts allegations fall into four categories. First, the plaintiff has made numerous allegations that certain prison employees read and divulged the contents of his legal materials. Second, the plaintiff alleges that certain prison employees have tampered with his legal materials. Third, the plaintiff claims that certain prison employees obstructed his ability to send out legal mail. Fourth, the plaintiff claims that certain prison employees harassed him over his pursuit of his legal claims.

The plaintiff has made numerous claims that prison officials read and/or divulged the contents of his legal materials. On August 4, 2004, Sgt. Shoemaker read a letter from the plaintiff to Angus Love, an attorney, out loud. Officer

McAllen was involved in this incident too. On July 23, 2004, the plaintiff received mail from a court, but its contents were divulged by unnamed prison officials. On August 7, 2004, Officer Hall commented on a letter the plaintiff sent to Angus Love. On August 10, 2004, Sgt. Shoemaker went through the plaintiff's cell and looked at a grievance that had not yet been filed.

On September 21, 2004, Lt. Wilts and other unnamed prison employees collected the plaintiff's grievance and read it out loud instead of filing it. On September 24, 2005, Officer Revello spoke about a grievance that the plaintiff filed. On October 5, 2004, a number of unnamed officers mentioned the type of petition that the plaintiff was working on. On October 6, 2005, Sgt. House, Lt. Wilts and Officer Hand talked about an injunction filed by the plaintiff and opened the envelope the injunction was in. On October 24, 2004, and again on November 7, 2004, an unnamed officer looked at a draft of the plaintiff's amended complaint and on October 24, 2004, that unnamed officer also divulged the contents of the plaintiff's draft of the amended complaint. On October 25, 2004, Sgt. House divulged the details of a response brief filed by the Attorney General's office.

On November 11, 2004, Officer Parks divulged the plaintiff's response to the defendants' motion to dismiss. On November 19, 2004, Sgt. House and Lt. Wilts spoke about one of

the plaintiff's status conferences. On November 26, 2004, Lt. Wilts made copies of the plaintiff's amended complaint that the plaintiff had forwarded to Mr. Love and discussed the amended complaint with unnamed prison employees. On January 19, 2005, an unnamed prison employee read a letter that Mr. Love sent to the plaintiff. On January 26, 2005, an unnamed prison employee divulged a legal request the plaintiff made to the prison library.

On March 30, 2005, Sgt. House and other unnamed prison employees discussed the plaintiff's grievance appeal out loud. On July 14, 2005, unnamed officers divulged the contents of legal work that the plaintiff had on his desk and on July 22, 2005, unnamed prison employees divulged more information regarding the plaintiff's litigation. Also on July 22, 2005, Officer Windal spoke about a letter that the plaintiff sent to Temple Law School. Finally, on August 11, 2005, an unnamed officer looked at a letter that Mr. Love had sent to the plaintiff.

The plaintiff has also made a few allegations that prison employees have tampered with his legal materials. On August 21, 2004, Officer Hand and Officer Kissell spoke about a letter to or from Angus Love being tampered with and said that the plaintiff is under investigation. Lt. Wilts allowed this to occur. On November 4, 2004, unnamed prison employees talked openly about tampering with the plaintiff's legal mail. On

December 10, 2004, Lt. Wilts, Sgt. House and Officer Parks spoke about tampering with a letter sent from a court to the plaintiff. On August 2, 2005, mail to the Court and mail from Mr. Love was tampered with by unnamed prison employees.

As for the plaintiff's allegations that certain prison employees are obstructing his ability to send out legal mail and pursue his legal claims, on an unknown date, the plaintiff's requests to the law library were divulged and deliberately placed in the wrong cell by unnamed prison employees. On October 9, 2004, Officer Williams refused to pick up a letter to Mr. Love unless it was unsealed first. On November 18, 2004, Officer Dawson refused to pick up a letter to Mr. Love unless the letter was left open for him to inspect for contraband. Sgt. Shoemaker supported this decisions and Lt. Watters told the plaintiff the same thing. On December 7, 2004, Officer Creamer threw away an appeal by the plaintiff to the chief grievance officer because the envelope was sealed. On February 25, 2005, Officer Miller would not let the plaintiff seal his legal mail before it was taken. On March 11, 2005, unnamed prison employees told the plaintiff that no more legal materials from the plaintiff would be sent to courts because the plaintiff had written a nasty letter to a judge. Finally, on August 5, 2005, a request for legal materials from the library was not completed and unnamed prison employees divulged the details of the plaintiff's request.

The plaintiff has also made a couple of allegations that he was harassed because of his legal claims. On November 5, 2004, the plaintiff was harassed about filing a § 1983 complaint. On November 20, 2004, Officer Revello made fun of the plaintiff's lawsuit. On November 25, 2004, Officer Parks and Younker yelled out comments about the plaintiff's case and this was allowed by Lt. Wilts.

J. Miscellaneous Claims

The plaintiff's other claims mostly revolve around prison employees tampering with his non-legal mail, confiscating his personal property and forcing him to live in an unsanitary environment. There are also allegations that prison employees are using electronic surveillance to monitor the plaintiff's activities in his cell.

1. SCI-Graterford

On a continuous basis, the plaintiff's personal mail was mishandled, tampered with and divulged by Lt. Randle, Officers Medaz, Clark, Andrews, Campbell and Thomas, as well as other unnamed prison employees. Also on a continuous basis, Lt. Randle, Officers Medaz, Clark, Andrews, Campbell and Thomas as well as other unnamed prison employees went through the plaintiff's personal property to get private information about

the plaintiff which they then divulged to others. Finally, following the altercation with Lt. Randle in late March or early April of 2004, the plaintiff's cell was stripped by unnamed prison employees and a picture of the plaintiff's aunt, a picture of the plaintiff's mother, a Swahili Bible and the plaintiff's cosmetics were thrown away.

2. SCI-Huntingdon

Soon after the plaintiff's arrival at SCI-Huntingdon, Lt. Wilts instructed the plaintiff that all of his hair would need to be cut off if the plaintiff did not remove some strings from his hair. The plaintiff feared that his hair would be damaged and informed Lt. Wilts that if the strings had to be removed, medical personal should do it using a stitches removal kit. Lt. Wilts refused and a barber came to remove the strings. It is unclear if the plaintiff's hair was damaged or cut off.

Following the initial problems that occurred soon after the plaintiff's arrival at SCI-Huntingdon, the plaintiff had trouble with prison employees going through his personal property and mail. First, all of the plaintiff's property was not shipped right away from SCI-Graterford. On May 2, 2004, Officer Hand went through the plaintiff's property and divulged the particular items that the plaintiff had. On June 17, 2004, Officer Killenger went through the plaintiff's personal property and read

one of the plaintiff's letters. On both June 22 and 25 of 2004, Officer Hand read the plaintiff's personal mail. This was allowed to happen by Lt. Wilts.

On August 25, 2004, Officer Hand told the plaintiff that he will not get his personal property. On November 11, 2004, a book was sent to the plaintiff from a professor, but he did not receive the book. The plaintiff did hear Officer Revello and other unnamed prison officials talking about the book though. On November 29, 2005, Officer Hall told the plaintiff that a letter he mailed out to his daughters would not get to them. On January 7, 2005, Officer Williams gave the plaintiff's mail to the wrong inmate and told the plaintiff to prove otherwise. On January 18, 2005, Officer Hall made a comment implying that the plaintiff's certified mail was not sent out.

On February 24, 2005, a prison employee named Anna read some of the plaintiff's mail. On March 4, 2005, Lt. McCoy and other unnamed prison employees took the plaintiff's shoes and returned them with ripped soles. On March 17, 2005, an Officer Mickey tampered with the plaintiff's mail. On March 18, 2005, the plaintiff's address book was lost when he moved cells. Officer Jones was responsible. On June 29, 2005, an unnamed prison employee confiscated one of the plaintiff's books. On July 4, 2005, Officer Younker told the plaintiff that his mail will not be sent out, but instead, it will be thrown away. On

July 15, 2005, Sgt. House tampered with the plaintiff's mail and on July 17, 2005, Sgt. House divulged that the plaintiff was requesting a book on metaphysics. On August 10, 2005, Officer Cherry threw away a copy of a Swahili grammar book that was sent to the plaintiff. Finally, on August 25, 2005, Officer Hand told the plaintiff that he would not get a catalog he ordered.

In addition to allegations that prison employees mishandled the plaintiff's personal mail and property, the plaintiff also alleges that prison employees kept him in unsanitary conditions and monitored him with electronic surveillance.

Upon arrival at SCI-Huntingdon, Lt. Wilts assigned the plaintiff to a dirty cell and gave him dirty clothes to wear. The plaintiff's clean clothes were taken from him. The plaintiff was forced to wear the dirty clothes and went a month with no clean underwear.

On September 15, 2004, unnamed staff members placed animal waste in the plaintiff's cell. On October 20, 2004, Officer Younker said that unnamed prison guards were trying to scare the plaintiff. Officer Younker was referring to a large rat that ran into the plaintiff's cell the night before. On July 31, 2005, the plaintiff was given dirty laundry by unnamed officers. On August 14, 2005, Officer Lowe gave the plaintiff dirty sheets. On August 15, 2005, the plaintiff was moved into a

dirty cell with human waste on the wall. The plaintiff was forced to clean up the waste himself. Finally, on August 21, 2005, Sgt. Taylor refused to do anything about the fact that the plaintiff had dirty sheets.

As for the allegations of electronic surveillance, on September 3, 2004, unnamed prison employees informed the plaintiff that a camera was pointed at his cell and that prison staff could see inside. On December 4, 2004, Lt. Wilts and other unnamed prison employees made comments that a camera was being focused on the plaintiff's cell.

III. Claims Against Individual Defendants⁴

A. SCI-Graterford Employees

1. Lt. Medden⁵

The plaintiff alleges that Lt. Medden failed to intervene when Officer Andrews physically assaulted the plaintiff following a DNA test on January 17, 2004. Also, the plaintiff alleges that on a continuous basis, Lt. Medden was informed by the plaintiff of wrongdoing by prison employees but that the abuse did not stop.

The plaintiff, in a previous complaint filed on June

⁴ The Court has spelled the defendants' names as they are spelled on the docket.

⁵ The docket shows both a J.T. Medden and a Lt. Medden. The Court has assumed that these two names refer to the same person.

25, 2004, alleged that Lt. Medden violated his Eighth and Fourteenth Amendment rights. The Court, in a Memorandum and Order issued on January 7, 2005, denied the defendants' motion to dismiss those claims.

2. Officer J.A. Wright

There are no allegations of wrongdoing by Officer Wright in the plaintiff's amended complaint. The Court found, on January 7, 2005, that the plaintiff, in a previous complaint, which has now been consolidated with the amended complaint, stated an Eighth Amendment claim against Officer Wright.

3. Officer Chickcoviact

There are no allegations of wrongdoing by Officer Chickcoviact in the plaintiff's amended complaint. The Court found, on January 7, 2005, that the plaintiff, in a previous complaint, which has now been consolidated with the amended complaint, stated an Eighth Amendment claim against Officer Chickcoviact.

4. Superintendent Donald Vaughn

The only allegation made against Superintendent Vaughn is that in Mid 2001 and/or Early 2002, Superintendent Vaughn refused the plaintiff's request for aid in stopping the abuse and

harassment by prison staff and instead told the plaintiff to stop getting misconducts. Superintendent Vaughn was also named as a defendant in the plaintiff's original complaint, but the claims against him were dismissed on January 7, 2005.

5. Superintendent D. Dilgulielmo

The plaintiff alleges that on a continuous basis, while the plaintiff was an inmate at SCI-Graterford, Superintendent Dilgulielmo was informed by the plaintiff of wrongdoing by prison staff but that the abuse did not stop.

6. Deputy Laranzo

The plaintiff alleges that on a continuous basis, while the plaintiff was an inmate at SCI-Graterford, Deputy Laranzo was informed by the plaintiff of wrongdoing by prison staff but that the abuse did not stop. Furthermore, on an unknown date, the plaintiff complained to Deputy Laranzo about moving back and forth between RHU cell blocks, but did not get a response.

7. Deputy Arolyo

The plaintiff alleges that on a continuous basis, while the plaintiff was an inmate at SCI-Graterford, Deputy Arolyo was informed by the plaintiff of wrongdoing by prison staff but that the abuse did not stop.

8. Major Bizzared

The plaintiff alleges that on a continuous basis, while the plaintiff was an inmate at SCI-Graterford, Major Bizzared was informed by the plaintiff of wrongdoing by prison staff but that the abuse did not stop.

9. Lt. Robenson

The plaintiff alleges that on a continuous basis, while the plaintiff was an inmate at SCI-Graterford, Lt. Robenson was informed by the plaintiff of wrongdoing by prison staff but that the abuse did not stop.

10. Lt. Johnson

The plaintiff alleges that on a continuous basis, while the plaintiff was an inmate at SCI-Graterford, Lt. Johnson was informed by the plaintiff of wrongdoing by prison staff but that the abuse did not stop.

11. Lt. Randle

Either at the end of March or the beginning of April of 2004, the plaintiff and Lt. Randle were involved in a physical altercation. The plaintiff has not provided any details about this incident.

On a continuous basis, Lt. Randle verbally harassed the

plaintiff regarding the crime the plaintiff committed. Lt. Randle and others also called out the names of the plaintiff's family members and their addresses on a continuous basis. Lt. Randle was one of the worst offenders with respect to divulging the names and addresses of the plaintiff's family and he did this knowing that the plaintiff was surrounded by individuals hostile to him. On an unknown date, Lt. Randle went as far as to state over the prison intercom system that the plaintiff was marked for death and that he wanted the plaintiff's daughters killed. At this time, Lt. Randle also gave out the addresses of the plaintiff's daughters.

Also on a continuous basis, Lt. Randle divulged, mishandled and tampered with the plaintiff's personal mail and went through the plaintiff's personal property and divulged private information about the plaintiff.

12. Ms. Hatcher

Ms. Hatcher is the grievance coordinator at SCI-Graterford. While the plaintiff was incarcerated at SCI-Graterford, he filed numerous grievances which he claims were denied. Instead of responding to the plaintiff's grievances, Ms. Hatcher placed the plaintiff on grievance restrictions. Furthermore, had Ms. Hatcher responded to a grievance filed by the plaintiff regarding harassment by Lt. Randle, the physical

altercation between Lt. Randle and the plaintiff would not have occurred. Thus, the plaintiff would not have had some of his property taken and the plaintiff would not received more disciplinary custody time.

13. Officer Silver

Officer Silver was involved in two incidents in which the plaintiff claims we was physically assaulted. First, on November 20, 2004, Officer Silver slammed the plaintiff's face into a brick wall and then pulled the plaintiff up some stairs. This all took place while the plaintiff was handcuffed. Second, on January 17, 2004, Officer Silver was involved in the physical assault on the plaintiff following his DNA test. Following the test, Officer Silver hit the plaintiff with a towel, which caused the plaintiff to turn around. Officer Andrews used this movement as an excuse to assault the plaintiff.

14. Officer Quick

Sometime in December of 2000, Officer Quick insulted the plaintiff and his family, commented on the nature of the plaintiff's criminal conviction and said the plaintiff was not wanted at SCI-Graterford. On January 17, 2001, Officer Quick repeated this "morning ritual" and Officer Quick spit at the plaintiff after the plaintiff had spit at Officer Quick. After

the spitting incident, Officer Quick continued to insult the plaintiff. The spitting incident was caught on camera, but that did not come to light at the plaintiff's misconduct hearing.

15. Officer Andrews

On January 17, 2004, during a DNA test, Officer Andrews began to choke the plaintiff and pull his hair. A Sgt. Alexcy told Officer Andrews to stop. Following the test, Officer Andrews with some assistance from Officer Silver, pushed the plaintiff to the floor and then up against a wall. At that time, Officer Andrews pulled the plaintiff's hair again.

On a continuous basis, Officer Andrews verbally harassed the plaintiff regarding the crime the plaintiff committed. Officer Andrews also called out the names of the plaintiff's family members and their addresses. Also on a continuous basis, Officer Andrews divulged, mishandled and tampered with the plaintiff's personal mail and went through the plaintiff's personal property and divulged private information about the plaintiff.

16. Officer Clark

On a continuous basis, Officer Clark verbally harassed the plaintiff regarding the crime the plaintiff committed. Officer Clark also called out the names of the plaintiff's family

members and their addresses. Also on a continuous basis, Officer Clark divulged, mishandled and tampered with the plaintiff's personal mail and went through the plaintiff's personal property and divulged private information about the plaintiff.

17. Officer Medaz

On a continuous basis, Officer Medaz verbally harassed the plaintiff regarding the crime the plaintiff committed. Officer Medaz called out the names of the plaintiff's family members and their addresses. Also on a continuous basis, Officer Medaz divulged, mishandled and tampered with the plaintiff's personal mail and went through the plaintiff's personal property and divulged private information about the plaintiff.

18. Officer Campbell

On a continuous basis, Officer Campbell verbally harassed the plaintiff regarding the crime the plaintiff committed. Officer Campbell called out the names of the plaintiff's family members and their addresses. Also on a continuous basis, Officer Campbell divulged, mishandled and tampered with the plaintiff's personal mail and went through the plaintiff's personal property and divulged private information about the plaintiff.

B. SCI-Huntingdon Employees⁶

1. Superintendent Grace

The plaintiff alleges that while he was an inmate at SCI-Huntingdon, Superintendent Grace was informed by the plaintiff of wrongdoing by prison staff, but that the abuse did not stop.

2. Lt. Wilts

The plaintiff alleges that Lt. Wilts: (1) verbally harassed him; (2) interfered with his ability to file grievances; (3) mistreated him on the basis of his religion and race; (4) retaliated against him; (5) interfered with his access to the courts; and (6) consistently failed to stop other prison employees from mistreating him. Additionally, the plaintiff made some miscellaneous allegations of wrongdoing by Lt. Wilts.

First, on a continuous basis, Lt. Wilts disclosed the names and addresses of the plaintiff's family. Specifically, Lt. Wilts either insulted the plaintiff's family, disclosed their addresses or disclosed personal communications the plaintiff was having with family members on May 11, October 8 and November 17, 2004. Lt. Wilts insulted the plaintiff personally on November 17 and 26, 2004. Lt. Wilts threatened or cursed at the plaintiff on

⁶ In addition to the defendants listed in this subsection, the plaintiff has named R.H.U. staff as a defendant.

October 4 and 16, 2004. Lt. Wilts commented on the plaintiff's criminal conviction on November 30, 2004. Lt. Wilts failed to stop other prison employees from verbally harassing the plaintiff on a continuous basis and specifically on May 15, June 12, July 27, October 11 and December 6, 2004.

Second, on August 24, 2004, Lt. Wilts spoke with Officer Hand and assured him that everyone took his side for the grievance filed by the plaintiff.

Third, Lt. Wilts insulted the plaintiff's religion on September 24 and October 18, 2004. Lt. Wilts called the plaintiff a racial epithet on September 24, 2004. On December 5, 2004, Lt. Wilts refused to give the plaintiff access to his religious property. Finally, on September 8, 2004, Lt. Wilts allowed prison employees to speak to the plaintiff in a racially insensitive manner.

Fourth, on November 16, 2004, Lt. Wilts refused to give the plaintiff envelopes in retaliation for the physical altercation the plaintiff had with Lt. Randle at SCI-Graterford. On September 18, 2004, Lt. Wilts told the plaintiff he was being harassed because of what happened at SCI-Graterford.

Fifth, on September 21, October 6, November 19, 25 and 26, 2004, Lt. Wilts divulged information about the plaintiff's legal materials and filings. On December 10, 2004, Lt. Wilts tampered with a letter the plaintiff received from a court. On

August 21 and October 1, 2004, Lt. Wilts allowed other prison employees to speak about the plaintiff's legal materials and to tamper with the plaintiff's legal materials.

Finally, soon after the plaintiff arrived at SCI-Huntingdon on April 13, 2004, Lt. Wilts forced the plaintiff to allow a barber to remove strings from the plaintiff's hair and assigned the plaintiff to a dirty cell with dirty clothes. On December 4, 2004, Lt. Wilts commented that a camera could see inside the plaintiff's cell and on June 22 and 25, 2004, Lt. Wilts allowed another prison employee to read the plaintiff's personal mail.

3. Capt. Attamanshafer

The only allegation of wrongdoing by Capt. Attamanshafer is that on August 4, 2004, Capt. Attamanshafer told the plaintiff that he would not be able to prove wrongdoing by prison employees unless he found another staff member to verify the incident.

4. Lt. Walters

The only allegation of wrongdoing by Lt. Walters is that on November 18, 2004, Lt. Walters told the plaintiff that he needed to unseal a letter to Angus Love before the letter could be picked up for delivery.

5. Sgt. House

The plaintiff alleges that Sgt. House: (1) secretly placed medicine in his food; (2) verbally harassed him; (3) mistreated him on racial and religious grounds; (4) retaliated against him; (5) obstructed his ability to access the courts; and (6) tampered with his personal mail and divulged his personal information.

First, on March 11, 2005, Sgt. House said that prison employees would stop placing substances in the plaintiff's food that caused him to urinate constantly. The plaintiff believes that this was a lie.

Second, Sgt. House made inappropriate comments regarding the plaintiff's family on September 24, October 9 and November 5, 2004 and August 1, 2005. Sgt. House made inappropriate comments about the plaintiff's criminal conviction on September 5, 23 and December 23, 2004 and January 21, 2005. Sgt. House threatened the plaintiff on November 7, 2004 and March 19, 2005. Sgt. House tried to provoke the plaintiff through verbal harassment on November 20, 2004.

Third, on September 9, 2004, Sgt. House said that he is harassing the plaintiff so that it does not look like racism (Sgt. House is African-American). On September 24 and October 3, 2004, Sgt. House made inappropriate comments regarding the plaintiff's religion. On December 5, 2004 and February 26, 2005,

Sgt. House refused to give the plaintiff access to his religious property.

Fourth, on January 26, 2005, Sgt. House denied the plaintiff commissary in retaliation for the plaintiff asking Sgt. House to stop commenting on his criminal conviction.

Fifth, on October 6, 25 and November 19, 2004 and March 30, 2005, Sgt. House talked about the plaintiff's legal materials and legal proceedings. On December 10, 2004, Sgt. House spoke of tampering with a letter that the plaintiff received from a court.

Sixth, Sgt. House divulged personal information or personal requests made by the plaintiff on November 18 and 19, 2004 and July 15 and 17, 2005.

6. Sgt. Shoemaker

The plaintiff alleges that Sgt. Shoemaker discouraged him from pursuing grievances, obstructed his ability to access the courts and denied him the use of prison facilities.

Specifically, on September 13, 2004, Sgt. Shoemaker told the plaintiff that his grievance was worthless. On August 4 and 10, 2004, Sgt. Shoemaker read the plaintiff's legal materials. On November 18, 2004, Sgt. Shoemaker supported a decision by Officer Dawson that a legal letter written by the plaintiff could not be picked up unless it was left unsealed. Finally, on October 1, 2004, Sgt. Shoemaker denied the plaintiff

the use of the prison yard because he did not want to bring the plaintiff back in to use the bathroom.

7. Officer Hand

The plaintiff alleges that Officer Hand: (1) physically mistreated him; (2) verbally harassed him; (3) interfered with his ability to pursue grievances; (4) interfered with his ability to practice his religion; (5) retaliated against him; (6) interfered with his ability to access the courts; and (7) obtained personal information about him and mishandled his personal property.

First, on October 8, 2004, Officer Hand commented that something had been placed in the plaintiff's food to make him urinate constantly. On December 9, 2004, Officer Hand gave the plaintiff a push in attempt to provoke the plaintiff.

Second, Officer Hand made inappropriate comments regarding the plaintiff's family on May 2, 11, October 14-16 and November 17, 2004 and January 3, 2005. Officer Hand threatened the plaintiff on May 2, July 26, October 16 and November 7, 2004 as well as on one unknown date. Officer Hand made inappropriate comments regarding the plaintiff's criminal conviction on September 5 and December 6, 2004. Officer Hand tried to provoke the plaintiff on January 14, 2005.

Third, on August 24, 2004, the plaintiff was told that

everyone took Officer Hand's side with respect to a grievance that the plaintiff filed.

Fourth, Officer Hand made inappropriate comments regarding the plaintiff's religion on May 11, 2004 and refused to give the plaintiff access to his religious materials on December 5, 2004.

Fifth, On August 1, 2004, Officer Hand informed the plaintiff that he would not get his property for another month because the plaintiff filed a grievance. On October 19, 2004, when the plaintiff received his property, it was covered in pepper-spray and rat feces. The plaintiff was told by Officer Hand that this was done for retaliatory reasons.

Sixth, Officer Hand talked out loud about the plaintiff's legal materials on August 21 and October 6, 2004.

Seventh, Officer Hand went through the plaintiff's personal property on May 2, June 22 and 25, 2004. Officer Hand denied the plaintiff his personal property on August 24, 2004 and August 25, 2005. On October 29, 2004, Officer Hand told the plaintiff that he had some friends looking into court records of the plaintiff's divorce.

8. Officer Parks

The plaintiff alleges that Officer Parks verbally harassed him, mistreated him on religious grounds and obstructed

his ability to access the courts.

Officer Parks made inappropriate comments regarding the plaintiff's criminal convictions or family on November 2, 17 and December 6, 2004 and August 5, 2005. Officer Parks denied the plaintiff access to some of his religious property on December 5, 2004. Finally, on November 11, 19, 25 and December 10, 2004, Officer Parks spoke out about the plaintiff's legal materials.

IV. Legal Analysis

A. Standard of Review

Courts must construe pro se complaints liberally. Smith v. Mensinger, 293 F.3d 641, 647 (3d Cir. 2002). A pro se complaint should not be dismissed for a failure to state a claim unless "it appears beyond doubt that the plaintiff can prove no set of facts in support of his claims which would entitle him to relief." Haines v. Kerner, 404 U.S. 519, 520-21 (1972) (internal quotations omitted); see also McDowell v. Del. State Police, 88 F.3d 188, 189 (3d Cir. 1996).

The Court will consider factual allegations made not only in the plaintiff's amended complaint (dated March 26, 2005), but also in the plaintiff's other subsequent filings with the Court, including two "tracking sheets" dated April 5, 2005 and September 7, 2005. The plaintiff brought this action under 42 U.S.C. § 1983 and claims his rights under the constitution and

the laws of the United States have been violated. At times in the complaint the plaintiff does make reference to specific constitutional rights, but it is not clear precisely which rights the plaintiff believes were violated.

The Court reads the plaintiff's complaint and subsequent filings to allege: (1) a violation of the plaintiff's Eighth Amendment rights based on physical assaults, verbal harassment, claims that substances were placed in the plaintiff's food and unsanitary conditions of confinement; (2) a violation of the plaintiff's Fourteenth Amendment rights based on allegations that prison officials did not respond to the plaintiff's grievances and mistreated the plaintiff on the basis of his race and religion; (3) a violation of the plaintiff's First Amendment rights based on claims of retaliation, denial of access to the courts and mishandling of the plaintiff's personal mail; (4) a violation of the plaintiff's First Amendment rights and rights under the Religious Land Use and Institutionalized Persons Act based on allegations of interference by prison officials with the plaintiff's ability to practice his religion; (5) a violation of the plaintiff's Fourth and Fourteenth Amendments rights based on allegations that prison officials mishandled the plaintiff's personal property; and (6) a violation of the plaintiff's Fourth Amendment rights based on allegations that prison officials secretly monitored the plaintiff's cell with electronic

surveillance.

The plaintiff has also made numerous allegations against unknown prison officials and prison officials who are not named as defendants in this case. The Court will only consider the plaintiff's allegations against named defendants.

B. The Defendants' Amended Partial Motion to Dismiss

In their amended partial motion to dismiss, the defendants argued that the plaintiff failed to state: (1) an Eighth Amendment claim based on allegations of excessive force, verbal harassment, or the failure of prison officials to intervene; (2) a Fourteenth Amendment claim based on allegations that prison officials did not properly investigate the plaintiff's grievances; and (3) a First Amendment claim based on allegations that prison official retaliated against the plaintiff. The defendants also raised arguments that some or all of the plaintiff's claims are barred by the Eleventh Amendment, the statute of limitations, a failure to exhaust administrative remedies and the physical injury requirement of the Prison Litigation Reform Act.

First, the Court will discuss the issues raised by the defendants in their motion to dismiss. Next, the Court will consider claims raised by the plaintiff, but not directly addressed by the defendants' motion to dismiss. Because the

plaintiff's allegations are unclear, the Court will still evaluate whether the plaintiff's allegations state a claim with respect to the issues not directly addressed by the defendants.

1. Sovereign Immunity

The defendants argued that the Eleventh Amendment bars the plaintiff's claims against SCI-Graterford, SCI-Huntingdon, the Pennsylvania Department of Corrections and all the defendants in their official capacity.

The Eleventh Amendment bars both federal question and diversity claims, for any type of relief, from being brought in federal court against states. Seminole Tribe of Fla. v. Florida, 517 U.S. 44, 54 (1996). This rule applies to states as well as state agencies. Cloverland-Green Spring Dairies, Inc. v. Pa. Milk Mktg. Bd., 298 F.3d 201, 205 n.2 (3d Cir. 2002). The Pennsylvania Department of Corrections is considered to be a state agency. Lavia v. Pa. Dept. of Corrections, 224 F.3d 190, 195 (3d Cir. 2000). Individual state prisons qualify for Eleventh Amendment protection too. See, e.g., Scantling v. Vaughn, 03-67, 2004 U.S. Dist. LEXIS 1995, at *29-30 (E.D. Pa. Feb. 12, 2004); Demyun v. Pa. Dept. of Corrections, No. 00-155, 2001 U.S. Dist. LEXIS 14948, at *8 (M.D. Pa. Sept. 14, 2001); see also, Cloverland-Green Spring Dairies, 298 F.3d at 205 n.2. Finally, no exceptions apply to sovereign immunity here as

Pennsylvania has not consented to suit in federal court.⁷ 42 Pa.C.S.A. § 8521(b).

Thus, as to the Department of Corrections, SCI-Graterford and SCI-Huntingdon, the Eleventh Amendment bars all of the plaintiff's claims against those institutions. To the extent the plaintiff's lawsuit seeks money damages from state officials acting in their official capacities, such claims are also barred by the Eleventh Amendment. Kentucky v. Graham, 473 U.S. 159, 165-167 (1985). The plaintiff may seek injunctive relief against prison officials in their official capacity for constitutional violations. Ex Parte Young, 209 U.S. 123, 154 (1908).

2. The Statute of Limitations

The next issue is whether claims raised in the plaintiff's amended complaint that occurred more than two years prior to the filing of that complaint are barred by the statute of limitations. The plaintiff originally filed a complaint in case number 05-773 on February 18, 2005. That complaint was then amended and on March 31, 2005, the Court consolidated it with a complaint which was previously filed by the plaintiff on June 25, 2004.

In § 1983 actions, the state statute of limitations for

⁷ Another possible exception, abrogation of sovereign immunity by Congress, also does not apply here.

general personal injury actions applies. Sameric Corp. v. City of Philadelphia, 142 F.3d 582, 599 (3d Cir. 1998). The statute of limitations for personal injury actions in Pennsylvania is two years. 42 Pa.C.S.A. § 5524.

A section 1983 cause of action accrues when the plaintiff knew or should have known of the injury. Sameric Corp., 142 F.3d at 599. The vast majority of the plaintiff's allegations took place after March of 2003 and thus are not time barred. However, the plaintiff alleges that Superintendent Vaughn did not respond to his complaints about misconduct by prison staff in mid-2001 and/or early-2002. The plaintiff has also alleged that Officer Quick verbally harassed him in late-2000 into early-2001 and that Officer Quick spit on him on January 17, 2001. Additionally, the plaintiff has made numerous allegations of continuous wrongdoing by multiple defendants and it is not clear if any of this wrongdoing took place prior to March, 2003.

The plaintiff argues that because of the ongoing nature of the harassment and the failure of prison officials to respond to harassment, the statute of limitations should be tolled. To determine if a continuing violation is sufficient to toll the statute of limitations, courts look to the subject matter, frequency and degree of permanence of the defendants' actions. Cowell v. Palmer Twp., 263 F.3d 286, 292 (3d Cir. 2001). The

harm must be more than occasional, sporadic acts. Id. at 292.

The Court has some serious reservations as to whether all of the plaintiff's claims are timely. However, because the plaintiff has alleged steady, wide ranging and continuous wrongdoing by prison officials, the Court will not, at this stage of the proceedings, dismiss any of the plaintiff's claims on statute of limitations grounds.

3. Exhaustion of Administrative Remedies

The defendants argued that the plaintiff did not exhaust all of his administrative remedies. Under the Prison Litigation Reform Act (the "PLRA"), before bringing a § 1983 action, a prisoner must exhaust all available administrative remedies. 42 U.S.C. § 1997e(a). The PLRA makes the exhaustion of administrative remedies a mandatory condition for bringing suit, even if the available administrative remedies do not provide for the relief sought in a prisoner's federal action. Booth v. Churner, 206 F.3d 289, 300 (3d Cir. 2000); Nyhuis v. Reno, 204 F.3d 65, 67 (3d Cir. 2000).

There is a three-step grievance process in Pennsylvania state prisons: 1) the prisoner files an initial grievance; 2) if the grievance is denied, the prisoner may file an appeal within five days; 3) if the appeal is denied, the prisoner may file a

final appeal to the Central Office Review Committee within seven days. Booth, 206 F.3d at 293 n.2 (3d Cir. 2000). If a prisoner does not exhaust the entire grievance process, the case should be dismissed. See, e.g., Id. at 300.

It is not clear from either the plaintiff's allegations or the amended partial motion to dismiss whether the plaintiff has exhausted all of his administrative remedies for his many claims. The defendants have not stated precisely which steps of the administrative review process the plaintiff has failed to take advantage of for each of his claims. Additionally, the plaintiff has made numerous allegations that his grievances were mishandled, blocked and lost. Thus, at this early stage, the Court will not dismiss any of the plaintiff's claims based on a failure to exhaust administrative remedies.

4. The Physical Injury Requirement Under the PLRA

The defendants argued that the plaintiff is not entitled to any compensatory damages because he has not pled a sufficient physical injury as required by the Prison Litigation Reform Act (the "PLRA"). The PLRA states that:

No Federal civil action may be brought by a prisoner confined in a jail, prison, or other correctional facility, for mental or emotional injury suffered while in custody without a prior showing of physical injury.

42 U.S.C. § 1997e(e). To meet the physical injury requirement in

§ 1997e(e), the plaintiff must allege more than a de minimis physical injury, though he need not allege a significant physical injury. Mitchell v. Horn, 318 F.3d 523, 536 (3d Cir. 2003).

The plaintiff has made some allegations of physical injuries. First, the plaintiff alleges that prison officials placed substances in his food that made him urinate constantly. Second, the plaintiff claims that his face was injured following the alleged assault by Officer Silver which took place on November 20, 2003. These allegations arguably demonstrate more than a de minimis physical injury.

Except for those allegations though, the plaintiff has not claimed to have suffered more than de minimis physical injuries. The plaintiff admits that he only suffered a de minimis injury following the alleged assault by Officers Andrews and Silver on January 17, 2004. The plaintiff has made no allegation he suffered any physical injuries from the altercation with Lt. Randle in late-March or early-April of 2004, the incident where Officer Quick allegedly spit on the plaintiff on January 17, 2001, or the incident where Officer Hand allegedly gave the plaintiff a slight push in the back on December 9, 2004. Additionally, the plaintiff has not made any allegations of physical injuries for any of his other claims.

Thus, to the extent the plaintiff is seeking compensatory damages based on a mental or emotion injury, any

such claims that are not based on the November 20, 2003 assault by Officer Silver or allegations of substances being placed in the plaintiff's food will be dismissed. That said, the PLRA does not bar any of the plaintiff's claims for nominal or punitive damages. Allah v. Al-Hafeez, 226 F.3d 247, 252 (3d Cir. 2000).

5. Claims of Physical Assaults

The plaintiff made five allegations that could be construed as physical assaults by named defendants. The plaintiff alleges that Officer Quick spit on him on January 17, 2001, Officer Silver assaulted him on November 20, 2003, Officer Andrews and Silver assaulted him on January 17, 2004, there was a physical altercation between Lt. Randle and the plaintiff in late-March or early-April of 2004 and that Officer Hand pushed him on December 9, 2004.

In their amended partial motion to dismiss, the defendants concede that the plaintiff's claim that he was assaulted by Officer Silver on November 20, 2004 states an Eighth Amendment claim. Except for this claim though, the defendants argue that the plaintiff has not stated any Eighth Amendment claims based on allegations of excessive force.

In the prison context, a de minimis use of force generally will not give rise to an Eighth Amendment violation.

Hudson v. McMillian, 503 U.S. 1, 9-10 (1992). That said, if force is applied maliciously and sadistically to cause harm, an Eighth Amendment violation will ensue even if the resulting injury is very minor. Id. at 9.

First, with respect to the alleged physical assault that involved Officers Andrews and Silver on January 17, 2004, the plaintiff alleges that he was choked, thrown to the ground and pushed up against a wall. He also claims he had his hair pulled. All this took place while the plaintiff was restrained in handcuffs and leg shackles. There is also an allegation that Officer Silver hit the plaintiff with a towel.

The plaintiff alleged that Officers Silver and Andrews attempted to justify the force they were using by inducing the plaintiff into making a movement which they would then use as an excuse to use force. Based on the plaintiff's allegations it is possible he will be able to make a showing of malicious and sadistic conduct against Officers Andrews and Silver. Thus, the Court will not dismiss the plaintiff's claim that he was assaulted on January 17, 2004 by Officers Andrews and Silver.

Second, the plaintiff alleges that he had a physical altercation with Lt. Randle after Lt. Randle threatened him over the prison intercom. The plaintiff provides no details about this incident. Although the Court has reservations as to whether the plaintiff has sufficiently stated an Eighth Amendment claim

against Lt. Randle, the plaintiff did allege that this physical altercation arose after Lt. Randle threatened both the plaintiff and his family members with death over the prison loudspeaker. Viewed in context, it is possible that the plaintiff will be able to show that his physical altercation with Lt. Randle demonstrated malicious and sadistic conduct. Thus, the Court will not dismiss this claim at this time.

Third, the plaintiff alleges that Officer Hand gave him a slight push in the back on December 9, 2004 in an attempt to provoke the plaintiff into fighting. The Court also has serious reservations whether this push could constitute a violation of the Eighth Amendment. However, because of the numerous allegations against Officer Hand and the allegation that this push was done to cause a fight, the Court will not dismiss this claim at this time.

Fourth, the plaintiff has not stated an Eighth Amendment claim against Officer Quick. Except for one allegation that Officer Quick spit on the plaintiff, the plaintiff has not alleged that any additional force was used. Other cases in this district have found that more serious allegations did not state an Eighth Amendment claim. For example, Brown v. Vaughn, No. 91-2911, 1992 U.S. Dist. LEXIS 4221 (E.D. Pa. Mar. 30, 1992) held that an allegation that a prison official punched a prisoner once in the chest and spit on him did not violate the Eighth

Amendment. Brown, 1992 U.S. Dist. LEXIS 4221 at *4. Also, Lenegan v. Althouse, No. 87-6820, 1988 U.S. Dist. LEXIS 4959 (E.D. Pa. May 26, 1988) held that allegations that two prison guards pulled a prisoner's ear and hair and smacked the back of his head did not state an Eighth Amendment claim. Lenegan, 1988 U.S. Dist. LEXIS 4959 at *5.

The plaintiff has not alleged he was injured at all by virtue of Officer Quick spitting on him. Furthermore, the plaintiff admits that Officer Quick only spit on him after the plaintiff had spit on Officer Quick. If the plaintiff's allegations are true, Officer Quick did not act appropriately, but such wrongdoing does not rise to the level of malicious and sadistic conduct in violation of the constitution.

6. Claims of Verbal Harassment and Threats

The plaintiff made dozens of claims of verbal harassment, threats and insults. The defendants argued that mere verbal harassment does not constitute a constitutional violation.

Numerous courts in this district have held that verbal harassment or threats, standing alone, do not state a constitutional violation. See, e.g., Gay v. City of Philadelphia, No. 03-5358, 2005 U.S. Dist. LEXIS 15840 at *15-16 (E.D. Pa. Aug. 2, 2005); Maclean v. Secor, 876 F. Supp. 695, 698

(E.D. Pa. 1995). The Court agrees with the reasoning in these cases.

The constant barrage of insults alleged by the plaintiff, if true, would certainly demonstrate reprehensible conduct by the defendants. However, where the plaintiff has only alleged verbal harassment and not verbal harassment in conjunction with other wrongdoing such as interference with religion, disparate treatment, retaliation, denial of access to the courts, etc., the Court will dismiss those claims.

Specifically, the following claims will be dismissed:

(1) the plaintiff's allegations that Lt. Randle harassed him on a continuous basis and called out the names and addresses of his family members (this does not include the incident where Lt. Randle threatened the plaintiff and his family members with death as that incident led to a physical altercation); (2) the plaintiff's allegations that Officer Quick, starting in December of 2000, insulted the plaintiff and his family, commented on the plaintiff's criminal conviction and told the plaintiff he was not wanted at SCI-Graterford; (3) the plaintiff's allegations that Officer Andrews verbally harassed him and called out the names and addresses of his family members on a continuous basis; (4) the plaintiff's allegations that Officer Clark verbally harassed him and called out the names and addresses of his family members on a continuous basis; (5) the plaintiff's allegations that

Officer Medaz verbally harassed him and called out the names and addresses of his family members on a continuous basis; (6) the plaintiff's allegations that Officer Campbell verbally harassed him and called out the names and addresses of his family members on a continuous basis; (7) the plaintiff's allegations that Lt. Wilts disclosed the names and addresses of his family, insulted him, threatened or cursed at him and commented on his criminal conviction; (8) the plaintiff's allegations that Sgt. House made inappropriate comments about his family and criminal conviction, threatened him and tried to provoke him through verbal harassment; (9) the plaintiff's allegations that Officer Hand made inappropriate comments about his family and criminal conviction, threatened him and tried to provoke him; and (10) the plaintiff's allegations that Officer Parks made inappropriate comments about his criminal conviction and family.

7. Failure of Prison Officials to Respond to Grievances

The defendants argue, and the plaintiff agrees that he has no Fourteenth Amendment right to force prison officials to investigate his grievances. The plaintiff's primary claim is that the defendants (specifically Ms. Hatcher) violated his Fourteenth Amendment rights by placing him on grievance restrictions.

The plaintiff's claim that he was put on grievance restrictions does not demonstrate a Fourteenth Amendment violation. Prisoners are not constitutionally entitled to a grievance procedure. See, e.g., Wilson v. Horn, 971 F. Supp 943, 947 (E.D. Pa. 1997), aff'd 142 F.3d 430 (3d Cir. 1998); McGuire v. Forr, No. 94-6884, 1996 U.S. Dist. LEXIS 3418 at *2, n.1 (E.D. Pa. Mar. 21, 1996), aff'd 101 F.3d 691 (3d Cir. 1996). Thus, the defendants did not violate the plaintiff's constitutional rights by placing him on grievance restrictions

Additionally, in a civil rights action under § 1983, respondeat superior does not apply and instead a civil rights defendant must have personal involvement in the alleged wrong. Rode v. Dellarciprete, 845 F.2d 1195, 1207 (3d Cir. 1988). Personal involvement may be shown by allegations of personal direction or actual knowledge and acquiescence. Id.

Generalized allegations that certain prison officials failed to intervene to stop wrongdoing, do not demonstrate the personal direction of or acquiescence to that wrongdoing. Therefore, the plaintiff's allegations that certain prison officials failed to properly respond to his allegations of wrongdoing will be dismissed for this reason as well.

Specifically, claims that the following defendants failed to respond, when informed by the plaintiff, through grievances or otherwise will be dismissed: (1) Lt. Medden; (2)

Superintendent Vaughn; (3) Superintendent Dilgulielmo; (4) Deputy Laranzo; (5) Deputy Arolyo; (6) Major Bizzared; (7) Lt. Robenson; (8) Lt. Johnson; (9) Ms. Hatcher; (10) Superintendent Grace; (11) Lt. Wilts; and (12) Capt. Attamanshafer. Additionally, any claims that Ms. Hatcher put the plaintiff on grievance restrictions will also be dismissed.

8. Retaliation

The plaintiff alleged that prison officials retaliated against him on numerous occasions. The defendants argue that the plaintiff has not stated a claim for retaliation under the First Amendment. To establish a prima facie retaliation case, a prisoner must prove that:

- 1) the conduct in which he was engaged was constitutionally protected;
- 2) he suffered "adverse action" at the hands of prison officials;
- and 3) his constitutionally-protected conduct was a substantial or motivating factor in the decision to discipline him.

Carter v. McGrady, 292 F.3d 152, 157-58 (3d Cir. 2002). "Adverse action" is anything that would deter an ordinary person from exercising their constitutional rights. Allah v. Seiverling, 229 F.3d 220, 225 (3d Cir. 2000).

Most of what the plaintiff alleges is unconstitutional retaliation are simply claims that prison officials responded to misconducts committed by the plaintiff. However, the plaintiff has alleged that Officer Hand denied him his property for a month

because the plaintiff filed a grievance and that Sgt. House denied the plaintiff commissary because the plaintiff asked Sgt. House not to comment on his criminal conviction.

The Court has some reservations about whether this alleged conduct constitutes adverse action. However, it is plausible that the plaintiff will be able to demonstrate that the conduct by Officer Hand and/or Sgt. House would have deterred an ordinary person from filing grievances. Based on these allegations, the plaintiff may be able to prove facts which would demonstrate unconstitutional retaliation. Thus, the Court will not dismiss these claims at this time.

C. Claims Raised by the Plaintiff but not Directly Addressed by the Defendants

Based on the foregoing discussion, the defendants' amended partial motion to dismiss will be granted in part and denied in part. However, the Court reads the plaintiff's factual allegations to raise several claims that were not directly addressed by the defendants' amended partial motion to dismiss but which the Court will nonetheless discuss.

1. Claims of Medicine or Other Substances Being Placed in the Plaintiff's Food

The plaintiff specifically identified two named defendants, Officer Hand and Sgt. House, who allegedly told him

that something was being placed in his food to make him urinate.

Prisoners "retain a limited right to refuse [medical] treatment and a related right to be informed of the proposed treatment and viable alternatives." White v. Napoleon, 897 F.2d 103, 113 (3d Cir. 1990). That said, "a prison may compel a prisoner to accept treatment when prison officials, in the exercise of professional judgment, deem it necessary to carry out valid medical or penological objectives." Id.

Even assuming that the substance that was allegedly placed in the plaintiff's food was medically necessary, the plaintiff still had a limited right to refuse treatment and to be told what he was being given. If the plaintiff was indeed given medication against his will, it is possible that the defendants may have a valid reason for taking such action, but even if such a reason had been put forth, now is not the appropriate stage in the proceedings for the Court to make such a determination.

It is not clear if Officer Hand and Sgt. House actually put substances in the plaintiff's food personally, saw others place things in the plaintiff's food, or were just harassing the plaintiff. However, based on the plaintiff's allegations he may be able to prove facts which would demonstrate unconstitutional conduct. Thus, the Court will allow these claims to go forward.

2. Interference with Religious Practices

The plaintiff alleged that Lt. Wilts, Sgt. House and Officers Hand and Parks interfered with his ability to practice his religion. The plaintiff practices African Traditional Spirituality.

The plaintiff's factual allegations state a cause of action under both the First Amendment and the Religious Land Use and Institutionalized Persons Act (the "RLUIPA"). Under the First Amendment, a prison regulation that burdens religious beliefs is valid if it is reasonably related to legitimate penological interests. DeHart v. Horn, 390 F.3d 262, 268 (3d Cir. 2004). Under the RLUIPA, government shall not substantially burden the exercise of religion by an institutionalized person unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of achieving that interest. 42 U.S.C. § 2000cc-1. Only beliefs that are sincerely held are entitled to constitutional protection. DeHart v. Horn, 227 F.3d 47, 52 (3d Cir. 2000). It follows that the RLUIPA only applies to sincerely held beliefs as well. See, e.g., Williams v. Bitner, 359 F. Supp. 2d 370, 375 (M.D. Pa. 2005).

The plaintiff alleges that Lt. Wilts, Sgt. House and Officer Hand insulted or made inappropriate comments regarding his religion on several occasions. Additionally, Lt. Wilts, Sgt. House, Officer Hand and Officer Parks denied the plaintiff access

to his religious property.

At this point, the Court has no reason to believe that the plaintiff's religious beliefs are not sincerely held. The Court concludes that based on allegations that the prison officials were openly hostile to the plaintiff's religious beliefs combined with allegations that the plaintiff's religious property was withheld from him, the plaintiff may be able to prove facts which show that a substantial burden was placed on his free exercise of religion. Furthermore, harassing the plaintiff about his religion does not serve a legitimate, much less a compelling governmental interest and at this stage in the proceedings, the Court cannot conclude that withholding the plaintiff's religious property served a legitimate or compelling governmental interest. Therefore, the Court will allow the plaintiff's claims that Lt. Wilts, Sgt. House, Officer Hand and Officer Parks interfered with his free exercise of religion to go forward.

3. Racial and Religious Discrimination

The plaintiff, who is African-American and practices African Traditional Spirituality, made some allegations of disparate treatment based on race and religion. The plaintiff's claims that prison officials interfered with his ability to practice religion can also be read to allege that the plaintiff

was discriminated against on religious grounds.

All that the plaintiff alleges with respect to his racial discrimination claims is that Lt. Wilts called him a racial epithet and that Sgt. House (who is also African-American) said he was harassing the plaintiff so that it would not look like racism.

That said, the plaintiff has alleged wide ranging mistreatment by prison officials and the Court cannot conclude, at this stage of the proceedings, that the plaintiff will not be able to make a showing of unconstitutional racial or religious discrimination.

4. Access to the Courts

Based on the plaintiff's allegations, he may be able to prove facts which demonstrate that prison officials interfered with his ability to access the courts.

To bring a successful access to the courts claim, an inmate must show that the defendants hindered his ability to pursue a legal claim. Lewis v. Casey, 518 U.S. 343, 351 (1996).

The plaintiff alleges that Sgt. Shoemaker, Lt. Wilts, Sgt. House, Lt. Walters, Officer Hand and Officer Parks interfered with his ability to access the courts. Specifically, the plaintiff alleged that Sgt. Shoemaker read the plaintiff's legal mail out loud, looked at a grievance the plaintiff was

preparing and supported a decision by another officer that the plaintiff unseal his legal mail before it was sent out. It is alleged that Lt. Walters forced the plaintiff to unseal his legal mail before it could be sent. It is alleged that Lt. Wilts, Sgt. House, Officer Hand and Officer Parks discussed the plaintiff's legal filings and his legal pursuits with other prison officials and divulged the details of his legal materials. The plaintiff also alleged that Lt. Wilts, Sgt. House and Officer Parks tampered with a letter sent from a court to him.

Although the plaintiff has been successful in bringing claims before this Court, at this time, the Court cannot conclude, that based on the plaintiff's allegations, the plaintiff will not be able to prove that Lt. Wilts, Sgt. Shoemaker, Sgt. House, Officer Hand, Lt. Walters and Officer Parks did not cause the plaintiff actual harm by hindering his ability to pursue his legal claims. Thus, the Court will not dismiss the plaintiff's access to the courts claims against these defendants at this time.

5. Tampering with Non-Legal Mail

The plaintiff made numerous allegations that the defendants tampered with his non-legal mail.

"[A] prison inmate retains those First Amendment rights that are not inconsistent with his status as a prisoner or with

the legitimate penological objectives of the corrections system." Pell v. Procunier, 417 U.S. 817, 822 (1974). Restrictions on an inmate's First Amendment rights "must be analyzed in terms of the legitimate policies and goals of the corrections system." Id.

The plaintiff alleges that Lt. Randle, Officers Medaz, Clark, Andrews, Campbell, Hand and Sgt. House tampered with, divulged or prevented the plaintiff from receiving his non-legal mail. At this stage in the proceedings, the Court concludes that it is plausible that based on these allegations the plaintiff will be able to make a showing of a First Amendment violation and the Court will not dismiss these claims.

6. Loss of Personal Property

The plaintiff also made allegations that his personal property was confiscated and that prison officials interfered with his personal property. Although the defendants did not directly address these allegations in their amended partial motion to dismiss, the Court will dismiss these allegations that prison officials mishandled his personal property because they do not state a constitutional claim.

In Hudson v. Palmer, 468 U.S. 517 (1984), the Supreme Court held that in the prison context even an "unauthorized intentional deprivation of property by a state employee does not constitute a violation of the procedural requirements of the Due

Process Clause of the Fourteenth Amendment if a meaningful postdeprivation remedy for the loss is available." Hudson, 468 U.S. at 533.

Here, the plaintiff alleges that certain prison officials mishandled, confiscated and withheld his personal property. No allegation have been made that there is no state law remedy for these claims. Therefore, the Court will dismiss any claim that the defendants mistreated the plaintiff's personal property.⁸

Specifically, the following claims will be dismissed:

(1) the plaintiff's allegations that Lt. Randle and Officers Medaz, Clark, Andrews, Campbell and Hand went through the plaintiff's personal property; and (2) the plaintiff's allegations that on August 25, 2004, Officer Hand told him that he will not get his personal property.

The plaintiff also alleged that prison officials divulged information about his personal property. Because there is no underlying constitutional violation regarding the mishandling of the plaintiff's personal property, these allegations are nothing more than pure verbal harassment and must be dismissed.

⁸ As the Court previously stated, the plaintiff's allegations that he was denied his religious property will not be dismissed.

7. Conditions of Confinement

The plaintiff alleged that he was forced to live in an unsanitary environment when Lt. Wilts assigned him to a dirty cell and gave him dirty clothes to wear soon after his arrival at SCI-Huntingdon.

To properly bring an Eighth Amendment claim based on the conditions of confinement, an inmate must, at a minimum, allege that prison officials were deliberately indifferent to the challenged conditions of confinement. Wilson v. Seiter, 501 U.S. 294, 303 (1991). Only deprivations which deprive an inmate of "the minimal civilized measure of life's necessities" are sufficient to state a claim under the Eighth Amendment. Id. at 298 (internal quotations omitted).

The plaintiff alleged that Lt. Wilts was at least deliberately indifferent to the conditions of the plaintiff's confinement. In fact, the plaintiff's allegations can be read to claim that Lt. Wilts purposely forced the plaintiff to wear dirty clothes and live in a dirty cell. The Court has some doubts as to whether the plaintiff will be able to demonstrate that these conditions deprived him of the "minimal civilized measure of life's necessities," but the Court will not dismiss the plaintiff's claim on this ground at this time. It is plausible that the plaintiff might be able to prove that his conditions of confinement met this high standard.

8. Electronic Surveillance

The plaintiff alleged that prison officials used electronic surveillance to monitor him against his will while he was in his cell.

The Supreme Court has held that prisoner do not have privacy rights in their cells. Hudson v. Palmer, 468 U.S. 517, 525-26 (1984). Thus, even if certain defendants did place electronic surveillance in the plaintiff's cell, they did not violate his Fourth Amendment rights. Therefore, the plaintiff's claims that Lt. Wilts made comments that a camera was focused on the plaintiff's cell will be dismissed.

9. Other Claims

The Court has attempted to analyze any possible claim that the plaintiff could bring based on his factual allegations. The Court recognizes that there are a few factual allegations that were not specifically addressed in this legal analysis section. For example, the Court has not specifically addressed the legal merits of the plaintiff's claim that Officer Hand had some of his friends look into the court records of the plaintiff's divorce, the legal merits of the plaintiff's claim that Lt. Wilts had a barber remove strings from his hair, or the legal merits of the plaintiff's claim that he was placed in RHU.

The Court concludes that for these claims, the plaintiff did not intend to allege separate constitutional violations, but instead, included these allegations to provide context with respect to his numerous claims of wrongdoing.

D. The Plaintiff's Motion for a Temporary Restraining Order

Finally, the plaintiff has filed a motion for a temporary restraining order to stop the ongoing violations of his constitutional rights. Because the defendants have filed a response to this motion, the Court will construe the plaintiff's motion as a request for a preliminary injunction. The Court must consider four factors before granting a request for a preliminary injunction:

(1) whether the movant has shown a reasonable probability of success on the merits; (2) whether the movant will be irreparably harmed by denial of the relief; (3) whether granting preliminary relief will result in even greater harm to the nonmoving party; and (4) whether granting the preliminary relief will be in the public interest.

Brian B. v. Pa. Dep't of Educ., 230 F.3d 582, 585 (3d Cir. 2000).

The Court will not grant the plaintiff's motion. First, although the plaintiff has alleged numerous claims of wrongdoing, the Court cannot conclude at this time that the plaintiff has demonstrated a reasonable probability of success on the merits. The plaintiff has not provided any evidence, outside of his allegations to support his claims.

Second, although the plaintiff has alleged ongoing and continuous wrongdoing, it is not clear that the plaintiff will be irreparably harmed if the Court does not grant the plaintiff's motion for a preliminary injunction.

However, even if the second factor did weigh slightly in the plaintiff's favor, the third and fourth factors weigh against the issuance of a preliminary injunction. When an inmate has alleged constitutional violations by prison officials, it is appropriate for the courts to become involved. That said, the Supreme Court has instructed that federal courts must defer to prison officials on how to best manage a prison. Lewis v. Casey, 518 U.S. 343, 349 (1996).

Because the plaintiff has made such wide ranging allegations, if the Court were to grant the plaintiff's request for a preliminary injunction, that order would, by definition, infringe on the defendants' ability to run the prison. Thus, if the Court were to grant the plaintiff's request for a preliminary injunction the resulting harm to the defendants would be great. Additionally, it would not be in the public interest for this Court to be overly involved in the management of a state prison. Therefore, the plaintiff's request for a preliminary injunction will be denied.

V. Conclusion

Based on the Court's analysis of the plaintiff's allegations, the following defendants will be dismissed from this case: the Department of Corrections; SCI-Graterford; SCI-Huntindon; Superintendent Vaughn; Superintendent D. Dilgulielmo; Deputy Laranzo; Deputy Arolyo; Major Bizzered; Lt. Robenson; Lt. Johnson; Ms. Hatcher; Officer Quick; Superintendent Grace; and Capt. Attamanshafer.

The Court concludes that the plaintiff has stated at least one claim that may entitle him to relief against the following defendants: Lt. Randle; Officer Silver; Officer Andrews; Officer Clark; Officer Medaz; Officer Campbell; Lt. Wilts; Lt. Walters; Sgt. House; Sgt. Shoemaker; Officer Hand; and Officer Parks. Additionally, the plaintiff, in a previous complaint stated a claims against Lt. Medden, and Officers Wright and Chickcoviact.

The Court recognizes that it would be difficult for the defendants to file a responsive pleading to the plaintiff's allegations in their current form, which include two separate complaints and two tracking sheets. The Court granted the plaintiff's motion for the appointment of counsel on July 8, 2004. The Clerk of Court was directed to attempt to obtain counsel for the plaintiff from the prisoner's civil rights panel. However, at this time, no attorney has agreed to represent the

plaintiff.

In light of this decision which dealt with all of the outstanding motions in this case, the Court will again attempt to obtain counsel for the plaintiff. The Court will place these proceedings in civil suspense for a period of 120 days or until counsel is appointed for the plaintiff. In the event that counsel is appointed for the plaintiff, or after 120 days has elapsed, the Court will schedule a telephone conference to discuss how to proceed in this case. The defendants will not be required to file a responsive pleading while this case is in suspense.

An appropriate Order follows.

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

WILLIE L. YOUNG, :
Plaintiff, : CIVIL ACTION
v. :
J.T. MEDDEN, et al., :
Defendants : NO. 03-5432

ORDER

AND NOW, this 23rd day of February, 2006, upon consideration of the defendants' Amended Partial Motion to Dismiss (Docket No. 47) and the plaintiff's Opposition, as well as the plaintiff's Memorandum of Law in Support of Order for an Injunction: A Temporary Restraining Order (Docket No. 36), the defendants' Response and the plaintiff's Opposition, IT IS HEREBY ORDERED that the plaintiff's request for a temporary restraining order is DENIED and that the defendants' Amended Partial Motion to Dismiss is GRANTED in part and DENIED in part.

IT IS FURTHER ORDERED that this matter will be placed in civil suspense for a period of one-hundred and twenty (120) days or until counsel is appointed for the plaintiff, whichever is earlier. The defendants will not be required to file a responsive pleading while this matter is in suspense.

The following claims will be dismissed with prejudice:
(1) all of the plaintiff's claims against the Department of Corrections, SCI-Graterford and SCI-Huntingdon and all claims for money damages against the defendants in their official capacity;

(2) all of the plaintiff's claims for compensatory damages based on allegations of mental or emotional injuries that do not stem from the alleged November 20, 2003 assault by Officer Silver or allegations of substances being placed in the plaintiff's food; (3) the claim under the Eighth Amendment that Officer Quick physically assaulted the plaintiff by spitting on him; (4) claims under the Eighth Amendment that prison officials verbally harassed or threatened the plaintiff that are not linked to other allegations of wrongdoing; (5) claims under the Fourteenth Amendment that prison officials did not properly respond to the plaintiff's grievances and requests; (6) claims under the Fourth and Fourteenth Amendments that the plaintiff's personal property was mishandled; and (7) claims under the Fourth Amendment that prison officials secretly placed electronic surveillance in the plaintiff's cell.

The following claims will go forward: (1) the plaintiff's Eight Amendment claims based on allegations that certain prison officials physically assaulted him (except for the claim that Officer Quick spit on the plaintiff), placed substances in his food and forced him to live in an unsanitary environment; (2) the plaintiff's Fourteenth Amendment claims that certain prison officials mistreated him on the basis of race; (3) the plaintiff's First Amendment claims based on allegations that certain prison officials retaliated against him, denied him

access to the courts and mishandled his personal mail; and (4) the plaintiff's claims under the First Amendment and the RLUIPA based on allegations that certain prison officials interfered with his ability to practice his religion.

Accordingly, the following defendants will be dismissed from this case: the Department of Corrections; SCI-Graterford; SCI-Huntindon; Superintendent Vaughn; Superintendent D. Dilgulielmo; Deputy Laranzo; Deputy Arolyo; Major Bizzared; Lt. Robenson; Lt. Johnson; Ms. Hatcher; Officer Quick; Superintendent Grace; and Capt. Attamanshafer.

At least one claim will go forward against the following defendants: Lt. Randle; Officer Silver; Officer Andrews; Officer Clark; Officer Medaz; Officer Campbell; Lt. Wilts; Lt. Walters; Sgt. House; Sgt. Shoemaker; Officer Hand; and Officer Parks. Additionally, the plaintiff, in a previous complaint, stated a claim against Lt. Medden, and Officers Wright and Chickcoviact.

BY THE COURT:

/s/ Mary A. McLaughlin
MARY A. McLAUGHLIN, J.