

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

HENRY E. CHASE : CIVIL ACTION
 :
 v. :
 :
 WACKENHUT CORRECTIONS :
 CORPORATION, et al. : NO. 97-3337

MEMORANDUM ORDER

Presently before the court is plaintiff's second motion for leave to proceed in forma pauperis which has been docketed as an amended complaint.

By order of June 13, 1997, the court granted plaintiff's initial motion for leave to proceed in forma pauperis with respect to his assault/intentional failure to protect claim against defendants Andrews, Lyons, Dooley and Lyden and dismissed plaintiff's other claims pursuant to 28 U.S.C. § 1915(g).

Plaintiff's allegations are essentially the same as those upon which the claims the court has already dismissed were premised. Plaintiff, however, does add that defendants Andrews, Lyons and Dooley are consistently "handcuffing" him during the two-hour period each day he is not on lock-down in a manner causing physical injuries which have required medical attention. While these additional allegations are not very detailed, the court cannot say from the face of plaintiff's pleading that such conduct would not place him in imminent danger of serious physical injury.

ACCORDINGLY, this day of July, 1997, upon consideration of plaintiff's second motion for leave to proceed in forma pauperis which has been docketed as an amended complaint (Doc. #9), **IT IS HEREBY ORDERED** that said motion is **GRANTED** in that plaintiff may amend his complaint to assert a claim for excessive use of force or wanton infliction of pain against defendants Andrews, Lyons and Dooley and is otherwise **DENIED**. **IT IS HEREBY FURTHER ORDERED** that the amended complaint is to be filed, the summonses are to issue, service of the summonses and amended complaint is to be made upon Warden Raymond Andrews, Assistant Warden Lyons and Captain Dooley by the U.S. Marshals Service in the event that waiver of service is not effected under Fed. R. Civ. P. 4(d)(2). The Clerk of Court shall also send a copy of the amended complaint to the attorney representing the correctional institution where the claim is alleged to have arisen. To effect waiver of service the Clerk of Court is specially appointed to serve written waiver requests on the defendants. The waiver of service requests shall be accompanied by copies of the amended complaint and shall inform the defendants of the consequences of compliance and of failure to comply with the requests. The requests shall allow the defendants at least 30 days from the date they are sent to return the signed waivers. If a signed waiver is not returned within the time limit given, the Clerk of Court's office shall transmit the summons and a copy of the amended complaint to the U.S. Marshals Service for immediate service under Fed. R. Civ. P.

4(c)(1), and a copy of this memorandum order is to be directed
all parties.

BY THE COURT:

JAY C. WALDMAN, J.