

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

CHARLES SIMS AFRICA	:	CIVIL ACTION
	:	
v.	:	
	:	
COMMISSIONER MARTIN	:	
HORN, et al.	:	NO. 96-8646

MEMORANDUM ORDER

Presently before the court is plaintiff's Motion for Leave to Add a New Party in this 42 U.S.C. § 1983 action. Plaintiff seeks to add Corrections Officer I. Patrick Curran as an additional defendant based upon his alleged participation in the activity which forms the basis for this action and also on another constitutional violation allegedly committed by him.

Plaintiff alleges that C.O. Curran was present at Program Review Committee ("PRC") 30-day reviews of plaintiff's designation to a restricted housing unit and thus aware of the "illegal actions" taken there. Plaintiff does not allege that C.O. Curran participated in the decision to place plaintiff in restricted housing or had authority to effect decisions of the PRC of which he apparently was not a member. Defendants correctly contend that allegations of Mr. Curran's presence during PRC meetings and concomitant knowledge of PRC determinations regarding plaintiff's custody status do not state a cognizable § 1983 claim.

Plaintiff also alleges that on July 15, 1997, C.O. Curran arbitrarily refused to allow plaintiff to engage in exercise or "yard" activities in violation of his "basic human

rights." Presumably, he is claiming that Mr. Curran violated plaintiff's Eighth Amendment right to be free from cruel and unusual punishment.

To establish an Eighth Amendment Violation, a plaintiff must prove a defendant subjected him to a deprivation sufficiently serious to result in the denial of minimal civilized standards of life's necessities or exposed him to conditions posing a substantial risk of serious harm and did so with deliberate indifference to plaintiff's safety, health or welfare. See Farmer v. Brennan, 511 U.S. 825, 833, 837 (1994). The length of any restriction or deprivation is also important as conditions which might be unacceptable for many weeks or months may not be intolerably cruel for more brief periods. Hutto v. Finney, 437 U.S. 678, 686-87 (1978); Hoptowit v. Ray, 682 F.2d 1237, 1259 (9th Cir. 1982).

At least in the absence of some significant health threat, a temporary denial of outdoor exercise does not constitute an Eighth Amendment Violation. See May v. Baldwin, 109 F.3d 557, 565 (9th Cir. 1997); Women Prisoners of the Dist. of Columbia Dept. of Corrections v. District of Columbia, 93 F.3d 910, 927 (D.C. Cir. 1996), cert. denied, 117 S.Ct. 1552 (1997); Davidson v. Coughlin, 1997 WL 342092, \*9 (S.D.N.Y. June 19, 1997) (denial of exercise for fourteen days does not violate Eighth Amendment). Also, an alleged denial of exercise would involve evidence and legal questions completely distinct from those implicated by plaintiff's pending claim.

**ACCORDINGLY**, this                    day of March, 1998, upon consideration of plaintiff's Motion For Leave to Add New Party (Doc. #17) and defendants' opposition thereto, **IT IS HEREBY ORDERED** that said Motion is **DENIED**.

**BY THE COURT:**

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**JAY C. WALDMAN, J.**