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

JAMES HUNT WARCLOUD, et al.	:	CIVIL ACTION
v.	:	
MARTIN F. HORN, et al.	:	NO. 97-3657

MEMORANDUM AND ORDER

HUTTON, J. May 19, 1998

Presently before this Court is the Defendants' Motion for Partial Judgment on the Pleadings (Docket No. 60), and the plaintiffs' response thereto. For the reasons stated below, the defendants' Motion is **GRANTED**.

I. BACKGROUND

The plaintiffs have alleged the following facts. The plaintiffs, James Hunt Warcloud ("Warcloud") and James Four Deer Walking Robinson ("Robinson"), are inmates at the Pennsylvania State Correctional Institution at Graterford ("Graterford"). Warcloud and Robinson are both Native Americans,\[1] and they are "practitioners of the Native American 'spirituality' (religion)." Pls.' Compl. ¶ 31. The plaintiffs allege that the defendants violated their First Amendment right to practice their religion and their Fourteenth Amendment right to equal protection.

1. The plaintiffs state that Warcloud is "Cheraw/Cherokee/Lumbee/European (Native American)," while Robinson is "Cherokee/European (Native American)." Pls.' Compl. ¶¶ 13, 14.

The plaintiffs filed the instant suit on July 1, 1997. In their Complaint, they named the following parties as defendants: (1) Commissioner of the Pennsylvania Department of Corrections ("DOC") Martin F. Horn; (2) DOC Deputy Commissioner, Jeffrey A. Beard; (3) DOC Religious Services Administrator, Reverend Francis T. Menei; (4) unknown persons on the DOC Religious Advisory Committee; (5) Graterford Superintendent Donald Vaughn; (6) DOC Graterford Deputy Superintendent David Diguglielmo; (7) DOC Graterford Deputy Superintendent Michael Lorenzo; and (8) the Graterford Chaplaincy Program Director, Reverend Edward A. Neiderhiser. In their Complaint, plaintiffs assert numerous causes of action under: (1) the First, Fourth, Fifth, Sixth, Eighth, Ninth, and Fourteenth Amendments; (2) the Religious Freedom Restoration Act ("RFRA"), 42 U.S.C. § 2000bb; (3) the American Indian Religious Freedom Act ("AIRFA") Amendments and American Indian Religious Freedom Joint Resolution Act, 42 U.S.C. § 1996; (4) the Pennsylvania Constitution; and (5) various state statutes. The plaintiffs seek injunctive relief, as well as compensatory and punitive damages. Pls.' Compl. ¶¶ 153-162.

On August 20, 1997, the defendants filed a motion to dismiss, pursuant to Federal Rule of Civil Procedure 12(b)(6). On September 19, 1997, the plaintiffs responded to the defendants' motion. On October 7, 1997, the defendants filed an

amended motion to dismiss, but the plaintiffs failed to respond in a timely manner. On October 29, 1997, the Court granted the defendants' amended motion to dismiss as uncontested.

On November 4, 1997, the plaintiffs filed a motion asking the Court to alter or amend judgment, and to vacate or to reconsider this Court's Order of October 29, 1997. On March 17, 1998, this Court granted the plaintiffs' motion to reconsider, and addressed the defendants' Amended Motion to Dismiss. The Court granted the defendants' Amended Motion to Dismiss with respect to: 1) the plaintiffs' Fourth, Fifth, Sixth, Eighth, and Ninth Amendment Claims; 2) the plaintiffs' RFRA claim; 3) the plaintiffs' AIRFA claim; and 4) the plaintiffs' pendent state law claims. However, the Court denied the defendants' Amended Motion to Dismiss with respect to the plaintiffs' First and Fourteenth Amendment Claims. On April 3, 1998, the defendants filed the instant motion, seeking partial judgment on the pleadings under Federal Rule of Civil Procedure 12(c). More specifically, the defendants request that this Court enter judgment in favor of the defendants with respect to the plaintiffs' request for damages.

II. DISCUSSION

A. Standard of Review Under Rule 12(c)

A motion for judgment on the pleadings under Rule 12(c) of the Federal Rules of Civil Procedure is treated under the same standard as a motion to dismiss under Rule 12(b)(6) of the

Federal Rules of Civil Procedure. Regalbuto v. City of Philadelphia, 937 F. Supp. 374, 376-77 (E.D. Pa. 1995), aff'd, 91 F.3d 125 (3d Cir.) (table), cert. denied, 117 S. Ct. 435 (1996); Constitution Bank v. DiMarco, 815 F. Supp. 154, 157 (E.D. Pa. 1993). Consequently, judgment under Rule 12(c) will only be granted where the moving party has clearly established that no material issue of fact remains to be resolved and that the movant is entitled to judgment as a matter of law. Regalbuto, 937 F. Supp. at 377 (citing Institute for Scientific Info., Inc. v. Gordon and Breach, Science Publishers, Inc., 931 F.2d 1002, 1005 (3d Cir.), cert. denied, 502 U.S. 909 (1991)). Additionally, the district court must view the facts and inferences to be drawn from the pleadings in the light most favorable to the non-moving party. Regalbuto, 937 F. Supp. at 377 (citing Janney Montgomery Scott, Inc. v. Shepard Niles, Inc., 11 F.3d 399, 406 (3d Cir. 1993)).

B. Analysis of Plaintiffs' Claims Under the Prison Litigation Reform Act

The Prison Litigation Reform Act, 42 U.S.C. § 1997e(e) (Supp. 1998), states that "[n]o Federal civil action may be brought by a prisoner confined in jail, prison, or other correctional facility, for mental or emotional injury suffered while in custody without a prior showing of physical injury." See Nieves v. Dragovich, No.CIV.A.96-6525, 1997 WL 698490, at * 3

n.2 (E.D. Pa. Nov. 3, 1997) (denying recovery for emotional and mental injury because of plaintiff's failure to allege physical injury); Wilson v. Shannon, 982 F. Supp. 337, 340 n.2 (E.D. Pa. 1997) (same). Where a prisoner brings a federal civil action for emotional or mental injuries suffered while in custody without alleging the requisite physical injury, the claim must be dismissed. Davage v. United States, No.CIV.A.97-1002, 1997 WL 180336, at * 5 (Apr. 16, 1997); see Siglar v. Hightower, 112 F.3d 191, 193-94 (5th Cir. 1997) (affirming dismissal of emotional injury claim where plaintiff lacked the requisite physical injuries).

In the instant action, the plaintiffs "state that they do suffer from psychological depression, stress, [and] anxiety," and claim that the defendants "dehumanized them because of the said intentional deprivation by the defendants." Pls.' Mot. in Opp'n at 1. Thus, the "plaintiffs . . . seek punitive, exemplary, and compensatory damages." Id. at 2; see Pls.' Compl. ¶ 162.

As the defendants point out, however, the plaintiffs have failed to allege the requisite physical injury required under Section 1997e(e). Accordingly, the plaintiffs cannot recover the damages they request with regard to their emotional and mental injuries. Instead, the plaintiffs are limited to the injunctive relief sought in their complaint.

An appropriate Order follows.

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O R D E R

AND NOW, this 19th day of May, 1998, upon consideration of the Defendants' Motion for Partial Judgment on the Pleadings (Docket No. 60), and the plaintiffs' response thereto, IT IS HEREBY ORDERED that the defendants' Motion is **GRANTED**.

IT IS FURTHER ORDERED that the **JUDGEMENT** is entered in favor of the defendants and against the plaintiffs with respect to the plaintiffs' request for damages.

BY THE COURT:

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HERBERT J. HUTTON, J.