

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

DERRICK A. BROWN : CIVIL ACTION
v. :
DONALD T. VAUGHN, et al. : NO. 95-8061

MEMORANDUM OF DECISION

THOMAS J. RUETER
United States Magistrate Judge

February , 1999

On February 1, 1999, this court conducted a nonjury trial in the above captioned case. Pursuant to Fed. R. Civ. P. 52, the court makes the following:

FINDINGS OF FACT

1. Plaintiff Derrick A. Brown is currently housed at the State Correctional Institution ("SCI") at Waymart, Pennsylvania.
2. In March, 1994, plaintiff was housed at the SCI located at Graterford, Pennsylvania. At that time, Mr. Brown had been incarcerated at SCI Graterford for approximately three years.
3. At all times relevant to this action, defendant Donald T. Vaughn was the Superintendent of SCI Graterford.
4. Defendant John C. Gysen is a Captain at SCI Graterford. Captain Gysen was the shift commander in charge of the 6:00 a.m. to 2:00 p.m. shift at SCI Graterford on March 23, 1994.

5. In March 1994, there were two exercise yard sessions per day at SCI Graterford -- the morning session ran from approximately 8:00 a.m. to 10:30 a.m.; the afternoon session ran from approximately 1:00 p.m. to 3:00 p.m.

6. The main exercise yard at SCI Graterford is primarily monitored by the officers in #8 and #9 Towers adjacent to the yard. When inmates are in the yard, it is the tower officers' responsibility to oversee the inmates in the yard.

7. There are, at a minimum, two officers, and a maximum of ten officers, assigned to monitor the yard from within the yard. These officers consist of miscellaneous/relief officers, officers pulled from various cellblocks and any extra officers who may be available from construction, transport, or other posts. As a complement to these officers, the yard is further monitored from the ground by three or four additional miscellaneous officers assigned outside the Day Captain's Office in front of the main yard doors. These officers visually monitor the yard through a long window in the main corridor just outside of the Day Captain's Office. At any one yard period, there could be as many as ten or eleven officers monitoring the yard.

8. Captain Gysen delegates the specific assignment as to who covers the two daily yard patrols (when inmates are in the main yard) to the Squad Sergeants and Squad Lieutenants on that shift.

9. Corrections Activities Specialists, who are not uniformed officers, are also in the yard during the exercise periods. Corrections Activities Specialists provide inmates with therapeutic recreational activities. Corrections Activities Specialist David Baragdie was in the exercise yard on the afternoon of March 23, 1994. Mr. Baragdie and several inmate helpers,

were laying down white lines, with various tools and equipment, preparing the softball diamond for the inmates' spring softball league.

10. The prison system operates on a chain-of-command system based upon following verbal and written orders from one's superior.

11. There is a Post Order which dictates the location, staffing and responsibilities of a Yard Security Officer. This Post Order was effective on March 23, 1994.

12. The duty of assigning Yard Security Officers was delegated by Captain Gysen to then Squad Sergeant James Coccia through his Squad Lieutenant. Sgt. (now Lt.) Coccia testified at trial that he could not recall verbally assigning officers to the yard on March 23, 1994, pursuant to the Post Order. However, Lt. Coccia stated that it was his practice always to assign guards to the yard, and he has no reason to believe that he did not assign guards to the yard on March 23, 1994.

13. In March and April of 1994, there was a series of stabbings and assaults at SCI Graterford amongst inmates and by inmates against staff on and around the area of D-Block, not the main exercise yard. As a result, SCI Graterford had several lockdowns (either partial lockdowns of only D-Block or institution-wide) during this period of time.

14. On March 16, 1994, after two separate incidents outside D-Block, including one in which a Correctional Officer was stabbed by an inmate, Superintendent Vaughn requested a full lockdown/state of emergency to restore order and calm in the institution.

15. Lockdowns facilitate a restoration of order and a period of calm for inmates. After multi-day lockdowns, inmates generally abide by institutional rules because they are eager to return to their normal activities, including access to the exercise yard.

16. As a result of these problems, SCI Graterford bolstered its staffing and security force. Corrections Officer D.D. Taylor was one of several officers receiving overtime on March 23, 1994, to provide extra security at the institution.

17. Superintendent Vaughn requested that the state of emergency be lifted effective 12:00 p.m., on March 21, 1994, because he believed that order had been restored. Normal operations resumed. An afternoon yard session was held on March 21, 1994. There were no reported problems for that yard.

18. Morning and afternoon yard sessions were held on March 22, 1994. There were no reported problems for either of these two yard periods. A morning yard session was held on March 23, 1994. There were no reported problems for that yard period.

19. Captain Robert Terra, head of internal security at SCI Graterford, was in the main corridor outside of the Day Captain's Office on the afternoon of March 23, 1994, with a lieutenant and a search team, specifically to provide extra security in response to earlier problems. The main corridor is not his usual post.

20. On March 23, 1994, approximately 500 to 1,000 inmates were present in the main yard at SCI Graterford during the 1:00 p.m. recreational period.

21. In the afternoon yard session on March 23, 1994, the fifth yard period since the lifting of the lockdown, a fight broke out in the main yard involving several inmates. Sergeant John Eichenberg, who was in the corridor outside the Day Captain's Office looking out the large window into the yard, was one of many officers who responded to the fight.

22. Sgt. Eichenberg observed plaintiff and an unknown inmate exchanging blows. Sgt. Eichenberg chased plaintiff, who ran toward the weight pile, the point farthest from

the entrance to the yard. Eichenberg observed plaintiff strip off a sweater as plaintiff ran from him. It took the Sergeant 15 to 20 seconds to reach the fight and apprehend plaintiff thereafter.

23. Plaintiff claims not to know the identity of the inmate with whom he was fighting. His main concern, which he voiced to Eichenberg, was whether or not he would receive a misconduct charge.

24. Superintendent Vaughn and Captain Gysen had no information to conclude that there would be problems in the yard on the afternoon of March 23, 1994. Indeed, most of the earlier problems had occurred on and around D-Block.

25. There had been no problems in four previous yard sessions. However, SCI Graterford still maintained extra security in the institution after the lockdown had been lifted two days earlier, on March 21, 1994.

26. If Vaughn or Gysen had information that would have led them to believe that there would be a fight in the yard on March 23, 1994, the afternoon yard period could have been canceled, and a full lockdown of the institution or partial lockdown of the offending block could have been instituted. They did not have any such information and thus, did not take those measures.

27. Plaintiff's only injury from the fight was a swollen cheek. At a physical examination shortly after the incident, plaintiff told the doctor that he had no injuries. The doctor noted on plaintiff's medical report that he visualized no injuries and plaintiff verbalized no injuries to him.

28. Plaintiff admits that he had no broken skin anywhere on his body and that the injury to his face was his worst injury. Indeed, less than a week after the fight, plaintiff sought treatment from a doctor for constipation -- not injuries from the fight.

Having found the above facts, the court makes the following:

CONCLUSIONS OF LAW

1. Petitioner argues that his Eighth Amendment right to be free from cruel and unusual punishment was violated when the defendants failed to protect him from assault by another inmate. See Farmer v. Brennan, 511 U.S. 825, 832 (1994). While the Supreme Court recognized that “[b]eing violently assaulted in prison is simply not ‘part of the penalty that criminal offenders pay for their offenses against society,’” Farmer, 511 U.S. at 834 (quoting Rhodes v. Chapman, 452 U.S. 337, 347 (1981)), the Court also noted that not “every injury suffered by one prisoner at the hands of another . . . translates into constitutional liability for prison officials responsible for the victim’s safety.” Id.

2. When a prisoner alleges a claim based upon a failure to prevent harm, the standard for determining constitutional liability for a prison official contains two elements. First, “the inmate must show that he is incarcerated under conditions posing a substantial risk of serious harm.” Farmer, 452 U.S. at 834. Second, the inmate must show that the prison officials have a “sufficiently culpable state of mind,” or one of “deliberate indifference to inmate health or safety,” to violate the Eighth Amendment. Id. Specifically, prison officials “cannot be found liable under the Eighth Amendment for denying an inmate humane conditions of confinement unless the official knows of and disregards an excessive risk to inmate health or safety; the

official must both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference.” Id. at 837.

3. The Third Circuit further clarified that to prevail on an “Eighth Amendment claim asserted under 42 U.S.C. § 1983, a plaintiff is required to produce sufficient evidence of (1) a substantial risk of serious harm; (2) the defendants’ deliberate indifference to that risk; and (3) causation.” Hamilton v. Leavy, 117 F.3d 742, 746 (3d Cir. 1997) (citing LaMarca v. Turner, 995 F.2d 1526, 1535 (11th Cir. 1993), cert. denied, 510 U.S. 1164 (1994)).

4. Based on all of the evidence, including the testimony of defendants Vaughn and Gysen, which this court finds credible, the court concludes that defendants Vaughn and Gysen were unaware of facts on March 23, 1994, from which an inference could be drawn that there existed a substantial risk of serious harm to plaintiff or other inmates present in the afternoon yard.

5. As noted earlier, the prison officials’ prior experience after lockdowns was that the inmates generally abide by institution rules because of the unpleasantness of the lockdown. Furthermore, defendants Vaughn and Gysen increased the institution’s security staff after the lockdown as a precaution against further inmate assaults. Moreover, after the lockdown, and prior to the March 23, 1994 recreational session, there occurred four sessions in the exercise yard with no reports of inmate violence. Thus, the defendants had no reason to believe that the afternoon yard session on March 23, 1994 would be any different.

6. While it is not clear to this court whether guards were patrolling the exercise yard on the afternoon of March 23, 1994, this question is not dispositive. For even if there were no guards present in the yard on the afternoon of March 23, 1994, as plaintiff

contends, the court finds the defendants neither knew of a substantial risk of serious harm to the plaintiff or other inmates in the yard, nor knew that there were no guards patrolling the yard at the time. Thus, they cannot be found deliberately indifferent to a known risk. While the absence of guards in the yard may amount to maladministration and a violation of the institution's policies, it does not constitute a violation of the Eighth Amendment without proof of a culpable state of mind on the part of the two defendants, which has not been shown here.

7. Plaintiff cannot prevail for an additional reason. He has not demonstrated that the absence of guards in the yard caused his injuries. Specifically, plaintiff has not proven that had the guards been present in the yard, it is likely he would not have been assaulted or that his injuries would have been less severe. The yard was 200 yards long and contained at least 500 inmates. An assault could easily have gone undetected even if the guards were present in the yard. Indeed, plaintiff, himself, was unable to identify his attacker. Furthermore, as plaintiff acknowledges, the lockdown of March 21, 1994, was a response to a series of assaults by inmates on correctional officers and an assault on another inmate which occurred in the presence of correctional officers. See Plaintiff's Proposed Findings of Fact ¶¶ 14-17. If the presence of correctional officers did not deter the inmates' assaultive behavior prior to March 23, 1994, there is no reason to conclude that it would have stopped it on that day in the exercise yard. In any event, as it turned out, officers stationed near the yard saw the assault and immediately reacted and prevented plaintiff from being severely harmed.

Therefore, for all of the above reasons, judgment will be entered in favor of the two named defendants and against plaintiff on all claims asserted.¹

BY THE COURT:

THOMAS J. RUETER
United States Magistrate Judge

¹ Megan A. Lawless, Esquire of the law firm of Pepper Hamilton LLP was appointed by this court to represent plaintiff, pro bono. Ms. Lawless provided outstanding representation of the plaintiff in a manner consistent with the highest traditions of the bar. The court appreciates Ms. Lawless' contributions to public service.

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CIVIL JUDGMENT

Before the Honorable THOMAS J. RUETER, United States Magistrate Judge

AND NOW, this day of February, 1999, for the reasons stated in the
accompanying Memorandum of Decision,

IT IS ORDERED

that Judgment be and the same is hereby entered in favor of defendants DONALD T. VAUGHN
and JOHN GYSEN, and against plaintiff DERRICK A. BROWN.

BY THE COURT:

THOMAS J. RUETER
United States Magistrate Judge