

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

DAVID G. EBERSOLE : CIVIL ACTION
 :
v. :
 :
GEORGE A. WAGNER, et al. : NO. 99-4526

MEMORANDUM

Giles, C.J.

December ____, 1999

This is a § 1983 action in which David Ebersole (“Plaintiff”) seeks compensatory damages and injunctive relief from the Warden of Pennsylvania’s Berks County Prison and various Prison Commissioners (collectively the “Defendants”) as redress for alleged violations of his constitutional rights stemming from an institutional “lock-down” in August, 1999. Before the court is the Defendants’ Joint Motion to Dismiss the Plaintiff’s suit. For the reasons which follow, the court grants Defendants’ joint motion.

BACKGROUND

Material Facts

Plaintiff is a prisoner confined in the Berks County Prison located in Leesport, Pennsylvania. Sometime prior to April 20, 1999, a lightening storm damaged an electronic sensor which, unbeknownst to prison officials, disabled a portion of the prison’s security system. On August 24, 1999, a prisoner was able to escape from the Berks County facility due to the failure of the damaged sensor. As a result of the August 24th escape, the prison’s recreation yard was closed and all inmates were restricted from movement about the facility. By August 26, 1999, all but the Plaintiff’s unit of the prison were allowed to proceed with normal institutional

activity; the Plaintiff's unit remained "locked-down" for an additional four (4) days. Plaintiff has filed a § 1983 suit claiming that his confinement restricted his freedom to exercise, forced him to wear dirty clothes, deprived him of his right to eat in the commissary as well as his right to use the prison's law library, interfered with his right to freely exercise his religion, and denied him opportunity to communicate with the court and attorneys. Specifically, Plaintiff alleges that the prison's actions: (a) deprived him of his right to free exercise of religion in violation of the First Amendment; (b) amounted to an illegal seizure under the Fourth Amendment; (c) was cruel and unusual punishment proscribed by the Eighth Amendment; (d) denied him of his "liberty" in violation of the Fourteenth Amendment; and (e) violated his right to counsel under the Sixth Amendment.

DISCUSSION

To bring a claim under 42 U.S.C. § 1983, a plaintiff must allege that a person acting under color of state law deprived him of his constitutional rights. Parratt v. Taylor, 451 U.S. 527, 535 (1981), overruled in part on other grounds. Although prisoners do not forfeit all constitutional rights upon entering prison, Wolff v. McDonnell, 418 U.S. 539, 555 (1974), "[l]awful incarceration brings about the necessary withdrawal or limitations of many privileges and rights [warranted] by the considerations underlying our penal system." Jones v. North Carolina Prisoner's Labor Union, Inc., 433 U.S. 119, 125 (1977) (quoting Price v. Johnston, 334 U.S. 266, 285 (1948)).

Fourth, Eighth, and Fourteenth Amendment Claims

There is a fundamental difference between depriving a prisoner of privileges that he may enjoy and depriving him of the basic necessities of human existence. Young v. Quinlan, 960 F.2d 351, 364 (3d. Cir. 1991). Lock-downs “differ from normal confinement only in the loss of freedom and privileges permitted to other prisoners,” see id., “although the duration and conditions of segregated confinement cannot be ignored in deciding whether such confinement meets constitutional standards.” Hutto v. Finney, 437 U.S. 678, 686-87 (1979). Discipline, such as lock-downs, by prison officials for misconduct “falls within the expected perimeters of the sentence imposed by a court,” and therefore does not amount to a constitutional violation, Sandin v. Conner, 515 U.S. 472, 485 (1995). This court holds that the lock-down for the purpose of ensuring the security and integrity of the Berks County prison facility in the present case also “falls within the expected perimeters of the sentence imposed” on the Plaintiff. As such, the temporary interruption of life experienced by the Plaintiff due to the lock-down was “not atypical” and presented no “significant hardship” on the inmate in relation to the ordinary incidents of his prison life. See Sandin, 515 U.S. at 484 (holding that thirty (30) day disciplinary “lock-down” of inmate not “major disruption in his environment” and therefore constitutional). Accordingly, this court concludes that the prison’s lock-down of the Plaintiff’s unit for security reasons was not cruel and unusual punishment in violation of the Eighth Amendment, nor was it a deprivation of the Plaintiff’s Fourteenth Amendment “liberty” interest.

Moreover, as official action constitutes a “seizure” when it deprives a person of some meaningful measure of liberty to which he is entitled, see, e.g., Reid v. Georgia, 448 U.S. 438, 440 (referring to “seizure” as “curtailment of a person's liberty”), and because the prison’s

security lock-down was not an “atypical” deprivation of the prisoners’ liberty, Plaintiff’s Fourth Amendment right to be from illegal seizure was not impinged upon.

First Amendment Claim

As noted, “incarceration brings about the necessary withdrawal or limitations of many privileges and rights, a retraction justified by the considerations underlying our penal system.” Price, 334 U.S. at 285. Thus, although prisoners retain their First Amendment right to free exercise of religion while incarcerated, incarceration, by its nature, infringes upon this right. Allah v. Horn, Nos. CIV.A. 95-7593, CIV.A. 96-0502, CIV. A.95-7700, CIV.A. 96-0466, CIV.A. 95-7922, 1998 WL 281930, at *4 (E.D. Pa. 1998).

Prison actions alleged to infringe constitutional rights are judged under a “reasonableness” test less stringent than that ordinarily applied to alleged infringements of fundamental constitutional rights. Thornburgh v. Abbott, 490 U.S. 401, 409-10 (1989). An action is upheld if it is “reasonably related to legitimate penological interests.” See O’Lone v. Estate of Shabazz, 482 U.S. 342, 350 (1987) (discussing prison regulations). Factors considered relevant in evaluating the “reasonableness” include: (1) the connection between the action and a legitimate government purpose; (2) the existence of alternative means of exercising the right; (3) the impact accommodation of the right would have on guards, other inmates, and prison resources; and (4) the absence of ready alternatives to the action. See Turner v. Safley, 482 U.S. 78, 89 (1987) (explaining reasonableness factors with regards to prison regulations).

In the present case, the lock-down did not have the purpose of interfering with Plaintiff’s religious activities, but rather was necessary to facilitate the legitimate prison interest

of securing the prison facility after an escape. Further, the Plaintiff was not denied his right to practice his religion within the boundaries of his cell. Thus, this court concludes that the brief interruption of Plaintiff's out-of-cell religious activities was reasonably related to legitimate security concerns, and therefore, not a violation of the First Amendment.

Sixth Amendment Claim

It goes without question that the Constitution's Sixth Amendment protections extend beyond prison walls to inmates. See Cruz v. Beto, 405 U.S. 319, 321 (1972) (stating that federal courts enforce constitutional rights of "all 'persons' including prisoners"). However, in light of legitimate penological objectives, a limitation on a prisoners' constitutional rights will not be deemed impermissible as long as "reasonable opportunities" are afforded to prisoners to exercise their rights. Id. at 322 n.2. Thus, to the extent that the August, 1999 lock-down was legitimately imposed, that the Plaintiff's constitutional right to counsel had to accommodate the interruption is not a constitutional violation, if the Plaintiff was indeed afforded reasonable opportunity to exercise his right.

Here, the record shows that the prison, and particularly the Plaintiff's unit, were locked-down in response to the August 24th breach of security. (Pl.'s Compl. "Scottsdale Claims" at ¶¶ 21-22). The record further infers (but does not clearly state) that the Plaintiff was restored to full access to communications and library visits within a week of the incident. (Id. at ¶ 37). Finally, there is nothing on the record that indicates that the Plaintiff was somehow prejudiced in this, or any other matter, because of the lock-down. Therefore, the court holds that in light of the prison's legitimate security concerns, and considering that the Plaintiff was allotted

reasonable opportunity to exercise his rights before and after the lock-down, the actions of the prison did not rise to the level of violating the Plaintiff's Sixth Amendment rights.

CONCLUSION

Although the inconveniences due to the August 24, 1999 lock-down were suffered by the Plaintiff, and his unit, for a period longer than the rest of the prison population, such extended disturbance did not amount to any constitutional violations. Accordingly, the Plaintiff's Complaint is **DISMISSED WITH PREJUDICE**.

An appropriate order follows.

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ORDER

AND NOW, this _____ day of December, 1999, upon consideration of Defendant's Motion to Dismiss, and the response thereto, it is hereby ORDERED that the Defendant's motion is GRANTED. It is FURTHER ORDERED that all other pending motions are DENIED AS MOOT.

BY THE COURT:

JAMES T. GILES C.J.

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