

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

ANTONIO HOLLAND : CIVIL ACTION
 :
 v. :
 :
 CYNTHIA WARD, et al. : NO. 97-3923

MEMORANDUM AND ORDER

HUTTON, J.

DECEMBER 20, 1999

Currently before the Court are the Motion for Summary Judgment of Cynthia Ward ("Ward"), Joann Cranston ("Cranston"), Dr. Margaret Carrillo ("Carrillo"), Joyce Riggins ("Riggins"), and Wackenhut Corrections Corporation ("Wackenhut") (collectively, the "Defendants") (Docket No. 24) and the Rebuttal Motion of Antonio Holland ("Holland" or "Plaintiff") (Docket No. 22). For the reasons stated hereafter, Defendants' Motion is conditionally dismissed.

I. BACKGROUND

Plaintiff, a prisoner incarcerated at S.C.I. Chester, is proceeding pro se and in forma pauperis. He filed a Complaint against the Defendants on August 6, 1997, alleging that his civil and/or constitutional rights were violated under 42 U.S.C. § 1983 with regard to treatment, or lack thereof, for a hernia during his incarceration at Delaware County Prison ("DCP"). Plaintiff's lawsuit names as defendants four individuals and one corporation.

Plaintiff alleges that Ward is the "Supervisor of Medical" at DCP. Cranston is allegedly the "Director of Medical Hospital" at DCP . Carrillo is allegedly a medical doctor at DCP. Riggins is allegedly the "Deputy Warden, Treatment" at DCP. Wackenhut allegedly provides medical services at DCP.

Plaintiff's "statement of claim" follows in its entirety.

Plaintiff suffers from a severe hernia to his groin area. Defendants refused to provide proper and adequate medical attention deliberately causing Plaintiff unnecessary and wanton pain. Plaintiffs [sic] condition causes him a burden inabeling [sic] him to adequately go about his normal routeen [sic]. Defendants refuse to take measures to insure his safety while in this condition. Things such as a bottom bunk, bottom tear [sic] ect [sic] knowingly Knowing [sic] being denied these things cause further damage to my condition. Diagnosis and inadequate treatments due to a lack [sic] professional medical staffing has resulted in my condition getting worster [sic].

(Compl. at 1). Plaintiff seeks the following relief:

A look into this facilities [sic] environmental standards. A [sic] investigation into medical staffing departments [indecipherable] M.D.'s, physician ect [sic], and Plaintiff be compensated in the sum of [indecipherable]¹ thousand for unnecessary and wanton pain.

(Compl. at 1). Defendants filed the instant Motion on June 8, 1999. Plaintiff responded on June 23, 1999.

II. LEGAL STANDARD

A. Summary Judgment Standard

Rule 56(c) of the Federal Rules of Civil Procedure provides

1. The Court is uncertain whether Plaintiff seeks \$25,000.00 or \$75,000.00 as the handwritten Complaint is illegible. (See Compl. at 4).

that summary judgment is appropriate if "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(c); see also Celotex Corp. v. Catrett, 477 U.S. 317, 322-23, 106 S. Ct. 2548 (1986). The party moving for summary judgment "bears the initial responsibility of informing the district court of the basis for its motion, and identifying those portions of 'the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any,' which it believes demonstrate the absence of a genuine issue of material fact." Celotex, 477 U.S. at 323. When the moving party does not bear the burden of persuasion at trial, as is the case here, its burden "may be discharged by 'showing'--that is, pointing out to the district court--that there is an absence of evidence to support the nonmoving party's case." Id. at 325.

Once the moving party has filed a properly supported motion, the burden shifts to the nonmoving party to "set forth specific facts showing that there is a genuine issue for trial." Fed. R. Civ. P. 56(e). The nonmoving party "may not rest upon the mere allegations or denials of the [nonmoving] party's pleading," id., but must support its response with affidavits, depositions, answers to interrogatories, or admissions on file. See Celotex, 477 U.S.

at 324; Schoch v. First Fidelity Bancorporation, 912 F.2d 654, 657 (3d Cir. 1990).

To determine whether summary judgment is appropriate, the Court must determine whether any genuine issue of material fact exists. An issue is "material" only if the dispute "might affect the outcome of the suit under the governing law." Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248, 106 S. Ct. 2505 (1986). An issue is "genuine" only "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Id.* If the evidence favoring the nonmoving party is "merely colorable," "not significantly probative," or amounts to only a "scintilla," summary judgment may be granted. See id. at 249-50, 252; see also Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586, 106 S. Ct. 1348 (1986) ("When the moving party has carried its burden under Rule 56(c), its opponent must do more than simply show that there is some metaphysical doubt as to the material facts." (footnote omitted)). Of course, "[c]redibility determinations, the weighing of the evidence, and the drawing of legitimate inferences from the facts are jury functions, not those of a judge." Anderson, 477 U.S. at 255; see also Big Apple BMW, Inc. v. BMW of N. Am., Inc., 974 F.2d 1358, 1363 (3d Cir. 1992). Moreover, the "evidence of the non-movant is to be believed, and all justifiable inferences are to be drawn in his favor." Anderson, 477 U.S. at 255; see also Big Apple BMW, 974 F.2d at 1363. Thus, the Court's

inquiry at the summary judgment stage is only the "threshold inquiry of determining whether there is the need for a trial," that is, "whether the evidence presents a sufficient disagreement to require submission to a jury or whether it is so one-sided that one party must prevail as a matter of law." Anderson, 477 U.S. at 250-52.

B. Section 1983 Claims

To establish a valid claim under 42 U.S.C. § 1983, the plaintiff must establish by a preponderance of the evidence that the conduct of which he complains was committed by one acting under color of state law and that it deprived him of rights, privileges, or immunities guaranteed by the Constitution. See Parratt v. Taylor, 451 U.S. 527, 535, 101 S. Ct. 1908 (1981); Piecknick v. Pennsylvania, 36 F.3d 1250, 1255-56 (3d Cir. 1994); Carter v. City of Phila., 989 F.2d 117, 119 (3d Cir. 1993). The plaintiff here claims that numerous state actors (defendants Ward, Cranston, Carrillo, and Riggins) deprived him of his Eighth Amendment right to be free from cruel and unusual punishment by exhibiting deliberate indifference to his serious medical needs.

1. Standard for Deliberate Indifference

In order to substantiate his § 1983 claim, Plaintiff must demonstrate that each defendant exhibited "deliberate indifference" in violation of his constitutional rights. In Estelle v. Gamble,

429 U.S. 97, 105-06, 97 S. Ct. 285 (1976), the Supreme Court identified the basic standard for a deliberate indifference claim: "In order to state a cognizable claim, a prisoner must allege acts or omissions sufficiently harmful to evidence deliberate indifference to serious medical needs." For conduct to rise to the level of deliberate indifference, plaintiff must demonstrate "an unnecessary and wanton infliction of pain" which is "repugnant to the conscience of mankind" and "offend[s] evolving standards of decency." Id. Plaintiff can satisfy this standard by demonstrating both that (1) plaintiff had a serious medical need, and also that (2) the defendant was aware of this need and was deliberately indifferent to it. See Farmer v. Brennan, 511 U.S. 825, 114 S. Ct. 1970 (1994); Inmates of Allegheny County Jail v. Pierce, 612 F.2d 754, 762 (3d Cir. 1979); see also Wilson v. Seiter, 501 U.S. 294, 296-98, 302-03, 111 S. Ct. 2321 (1991).

As to the first element, under the Constitution, prison officials must provide care only for "serious medical needs." Estelle, 429 U.S. at 104. The Third Circuit defines a medical need as "serious" if it is "one that has been diagnosed by a physician as requiring treatment or one that is so obvious that a lay person would easily recognize the necessity for a doctor's attention." Monmouth County Correctional Inst. Inmates v. Lanzaro, 834 F.2d 326, 347 (3d Cir. 1987); Pace v. Fauver, 479 F. Supp. 456, 458

(D.N.J. 1979), aff'd, 649 F.2d 860 (3d Cir. 1981). The fact that a surgery is elective "does not abrogate the prison's duty, or power, to promptly provide necessary medical treatment for prisoners." Johnson v. Bowers, 884 F.2d 1053, 1056 (8th Cir. 1989); see also Hathaway v. Coughlin, 37 F.3d 63, 64-69 (2d Cir. 1994)(upholding a jury verdict on Eighth Amendment claim in favor of plaintiff where defendants delayed plaintiff's elective hip surgery for two years). The seriousness of an inmate's medical need may also be determined by reference to the effect of denying the particular treatment. See Monmouth County, 834 F.2d at 347. For instance, Estelle makes clear that if "unnecessary and wanton infliction of pain," results as a consequence of denial or delay in the provision of adequate medical care, the medical need is of the serious nature contemplated by the Eighth Amendment. Estelle, 429 U.S. at 103, 105.

The Supreme Court has held that the level of culpability entailed by the second element, deliberate indifference, falls somewhere between mere negligence (carelessness) and actual malice (intent to cause harm). Farmer, 511 U.S. at 836-37 (holding that a prison official can be found reckless or deliberately indifferent if "the official knows of and disregards an excessive risk to inmate health or safety ..."). See also Young v. Quinlan, 960 F.2d 351, 360-61 (3d Cir. 1992) (holding that "a prison official is deliberately indifferent when he knows or should have known of a

sufficiently serious danger to an inmate"). In the context of claims arising under the Eighth Amendment, courts have said that state of mind is typically not a proper issue for resolution on summary judgment. See, e.g., Wilson v. Seiter, 893 F.2d 861, 866 (6th Cir. 1990), vacated on other grounds, 501 U.S. 294, 111 S. Ct. 2321 (1991).

In evaluating claims of deliberate indifference, courts have distinguished between denial of medical treatment, like that alleged here, and inadequate medical treatment. Mere disagreement as to the proper medical treatment does not support a claim of an Eighth Amendment violation; courts will defer to medical judgments of the propriety of treatment. See Monmouth County, 834 F.2d at 346 (citing Bowring v. Godwin, 551 F.2d 44, 48 (4th Cir. 1977)). On the other hand, the denial of medical treatment requested by an inmate states a cause of action under § 1983. The Third Circuit has stated that where prison authorities deny reasonable requests for medical treatment, and such denial exposes the inmate "to undue suffering or the threat of tangible residual injury," deliberate indifference is manifest. Monmouth County, 834 F.2d at 346 (citing Westlake v. Lucas, 537 F.2d 857, 860 (6th Cir. 1976)). Furthermore, short of total denial, if necessary medical treatment is delayed for non-medical reasons, a case of deliberate indifference has been made out. Id. at 346-47 (citing Ancata v. Prison Health Servs., 769 F.2d 700, 704 (11th

Cir. 1985) ("if necessary medical treatment [i]s ... delayed for non-medical reasons, a case of deliberate indifference has been made out."). See also Hathaway, 37 F.3d at 66 (holding that a two year delay in arranging necessary surgery could support a finding of deliberate indifference); Douglas v. Hill, 1996 WL 716278, *8 (E.D. Pa.1996) (denying defendants' motions for summary judgment where medical personnel failed to authorize recommended hernia surgery, despite awareness of plaintiff's complaints of pain).

Although an isolated failure to treat, without more, is ordinarily not actionable, it "may in fact rise to the level of a constitutional violation if the surrounding circumstances suggest a degree of deliberateness, rather than inadvertence, in the failure to render meaningful treatment." Gill v. Mooney, 824 F.2d 182, 196 (2d Cir. 1987). For example, offensive and outrageous acts serve as proof of deliberate indifference. See Rhodes v. Chapman, 452 U.S. 337, 346, 101 S. Ct. 2392 (1981); Estelle, 429 U.S. at 105-06.

2. Defendants' Personal Involvement

Plaintiff must provide evidence that, if believed by a reasonable fact-finder, would show that each of the defendants knew, or should have known, of his serious medical need, and was deliberately indifferent to it. See Rode v. Dellarciprete, 845 F.2d 1195 (3d Cir. 1988) (holding that to incur liability in a civil rights action, the Defendant must have some type of personal

involvement in the incidents that are alleged to have violated the Plaintiff's civil rights); Payton v. Vaughn, 798 F. Supp. 258 (E.D. PA. 1992) (holding that to impose liability for a § 1983 violation, the Plaintiff must establish with particularity that a named Defendant was directly and personally involved in the deprivation of the Plaintiff's rights).

If there is sufficient evidence to reasonably expect that a jury could return a verdict in favor of plaintiff, then that is enough of a showing to thwart imposition of summary judgment. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248-51, 106 S. Ct. 2505 (1986). If there is any evidence in the record from any source from which a reasonable inference in the plaintiff's favor may be drawn, the moving party simply cannot obtain a summary judgment. Id.

III. DISCUSSION

As noted above, Plaintiff is proceeding pro se. The Supreme Court, in Haines v. Kerner, 404 U.S. 519, 520, 92 S. Ct. 594, 30 (1972), indicated that pro se plaintiff's complaints should be construed liberally. See also Lewis v. Attorney Gen. of the United States, 878 F.2d 714, 722 (3d Cir. 1989) (stating that "A pro se [litigant's] pleadings should be ... construed liberally."). To this end, the Court may construe a pro se plaintiff's pleadings as affidavits for purposes of summary judgment motions. See Reese v. Sparks, 760 F.2d 64, 67 n.3 (3d Cir. 1985) (treating verified

complaint of a prisoner acting pro se as an affidavit). Mindful of the above, the Court now considers Plaintiff's Complaint, Defendants' Motion for Summary Judgment, and Plaintiff's response thereto.

Plaintiff's Complaint is recorded on a form (the "Form for Complaint") with the following title: "Form to be Used by a Prisoner Filing a 42 U.S.C. § 1983 Civil Rights Complaint in the United States District Court for the Eastern District of Pennsylvania." (Compl. at 1). The Form of Complaint's instructions in the "Statement of Claim" section state in pertinent part as follows:

State here . . . the facts of your case. . . . State how each defendant violated your constitutional rights. Although you may refer to any person, make claims only against the defendants listed in the Caption Make only claims which are factually related. Each claim should be numbered and set forth in a separate paragraph of how the defendants were involved.

(Compl. at 4. (emphasis added)).

While the above instructions appear directly above the space provided for a litigant to enter his or her statement of claim, Plaintiff's Complaint is totally devoid of factual allegations that relate particular, allegedly unlawful acts to even a single named defendant. As the Court cannot determine culpability under § 1983 with the requisite particularity of causes of action, parties, and facts, the merits of Plaintiff's claim are neither known nor apparent. As such, the evidence before the Court is as such that

a reasonable jury would have no realistic choice but to return a verdict for Defendants. Nevertheless, allegations such as those asserted by pro se Plaintiff, however inartfully pleaded, are sufficient to call for the further opportunity to state claims on which the Court may thoughtfully determine whether genuine issues of material fact exist so as to render appropriate a jury trial.

In light of the foregoing, Defendants' instant Motion is denied with leave to renew. Plaintiff, however, shall have twenty (20) days from the date of entry of this Memorandum and Order to file an Amended Complaint which complies with the instructions which accompany the Statement of Claim section of the Form of Complaint. In the event that Plaintiff does not file an Amended Complaint within the time period proscribed and Defendants renew their Motion for Summary Judgment, Defendant's Motion for Summary Judgment will be granted and Plaintiff's Complaint will be dismissed with prejudice.

An appropriate Order follows.

