

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

EFRAIN REYES : CIVIL ACTION
 :
 v. :
 :
 JOSEPH HANNAH et al. : 97-3922

MEMORANDUM & ORDER

J. M. KELLY, J.

FEBRUARY , 2000

Presently before the Court is a Motion for Summary Judgment filed by the Plaintiff, Efrain Reyes (“Reyes”). Also before the Court is a Motion by the remaining Defendants, Edward Sweeney and Timothy Laws (the “Defendants”), for an enlargement of time to file a summary judgment motion of their own. For the following reasons, the Plaintiff’s motion is denied and the Defendants’ motion is granted. The Defendants shall file all dispositive motions on or before March 17, 2000.

I. BACKGROUND

The Plaintiff, currently an inmate at the State Correctional Institution at Albion and proceeding pro se, filed an amended complaint pursuant to 42 U.S.C. § 1983 (1994) alleging his Eighth Amendment and due process rights were violated while he was incarcerated at Lehigh County Prison (“Lehigh”). Reyes alleges that he contracted tuberculosis while at Lehigh, that he did not receive adequate examination or testing for the illness and that his health complaints went unanswered in violation of his right to be free from cruel and unusual punishment. He alleges additionally that Lehigh officials confiscated and retained his wedding ring and made him pay restitution for damage to county property, both without due process of law.

On March 2, 1999, this Court entered a scheduling order setting the deadline for

discovery on or before July 1, 1999. On June 12, 1999, Reyes served a Request for Production of Documents to which he received no response. Reyes filed a Motion to Compel, which the Court granted in part, ordering the Defendants to produce “all grievances, complaints or other documents related to airborne infection at Lehigh County Prison, on or before September 7, 1999.” *United States ex rel. Reyes v. Sweeney*, No. CIV. A. 99-3922, 1999 WL 675471, at *1 (E.D. Pa. Sept. 1, 1999) (mem.).

Trial was scheduled to commence in this case on September 9, 1999, however on or about September 3, 1999, Reyes appealed the Court’s dismissal of a different defendant in the matter to the Third Circuit Court of Appeals, thus divesting this Court of jurisdiction. Nonetheless, Reyes filed the present motion for summary judgment on October 20, 1999.¹ The Third Circuit dismissed the appeal for failure to timely prosecute on November 16, 1999. Approximately two months later, on January 14, 2000, the Defendants filed their untimely response to Reyes’ summary judgment motion and filed the instant motion for enlargement of time.

II. DISCUSSION

A. Reyes’ Motion for Summary Judgment

Reyes sets forth two arguments in support of his motion for summary judgment: first, that the Defendants have failed to comply with the Court’s September 1, 1999 Order granting his motion to compel, and second, that he is entitled to judgment as a matter of law on his Eighth

¹ While the motion was filed during the period in which this Court was divested of jurisdiction over this matter and both it and the Defendants’ response were untimely, given the unique and protracted circumstances of this case, the Court will, in its discretion and in the interests of justice, consider it nonetheless.

Amendment and due process claims.

Turning to Reyes' first argument, the Court notes preliminarily that summary judgment is not the appropriate procedural mechanism for addressing discovery disputes, but given Reyes' pro se status, the Court will nonetheless address the issue. It is unclear from both the motion and the Defendants' response whether the Defendants have actually complied with the Court's September 1, 1999 Order. It appears from Reyes' motion that despite the Court's order granting his motion to compel, the Defendants have yet to produce the requested documents or provide an explanation for their failure to do so. For the Defendants' part, they merely deny Reyes' allegations, claiming they "have responded to all of Plaintiff's discovery requests in the proper manner." Response of Defs. to Summary Judgment Motion, at 1. The Court is thus unable to determine what, if any documents, were produced in accordance with its Order. Accordingly, the Defendants shall provide the Court and Reyes with an explanation of all documents produced in response to this Court's September 1, 1999 Order, or an explanation as to why no documents were produced, on or before February 28, 2000. Upon receipt of the Defendants' explanation, Reyes is free to file an appropriate motion, if any, with this Court.

Turning to Reyes' second argument, even a cursory reading of the pleadings and motions reveals that when accepted as true, there is evidence sufficient to support a verdict for the Defendants, thus precluding summary judgment. Pursuant to Federal Rule of Civil Procedure 56(c), summary judgment "shall be rendered forthwith 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). In resolving a motion for summary judgment, the Court

must accept as true the evidence of the nonmoving party and draw all reasonable inferences in its favor. See Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 255 (1986). The Court must determine whether “the evidence is such that a reasonable jury could return a verdict for the nonmoving party.” Id. at 248. In the instant case, the record is replete with evidence which, if believed, could reasonably result in a verdict for the Defendants.² For instance, regarding Reyes’ Eighth Amendment claims, the Defendants deny that Reyes even contracted tuberculosis, as well as that they were deliberately indifferent to any of his medical needs. As for Reyes’ due process claim, the Defendants deny that the ring was confiscated without due process, asserting alternatively that the ring was not an authorized wedding band, a hearing was held on the matter, and the confiscation was justified by legitimate penological interests. In both cases, there is serious doubt as to whether Reyes would prevail on his claims, and therefore necessarily too much doubt to preclude the possibility of a verdict for the Defendants. Accordingly, Reyes’ motion for summary judgment is denied.

B. Defendants’ Motion for an Enlargement of Time to File a Summary Judgment Motion

The Defendants move for an enlargement of time to file their own motion for summary judgment. In consideration of the circumstances of the case, and in the interests of justice, the Defendants’ motion is granted. All dispositive motions shall be filed on or before March 17, 2000.

² Indeed, it is not even clear to this Court that Reyes states a cause of action upon which relief can be granted, although the Defendants’ previous failure to file an appropriate motion precludes the Court from making that determination.

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ORDER

AND NOW, this day of February, 2000, in consideration of the Motion for Summary Judgment filed by the Plaintiff, Efrain Reyes (Doc. No. 47), the Defendants' Motion for Enlargement of Time to File a Motion for Summary Judgment (Doc. No. 49) and the answers of the parties thereto, it is ORDERED:

- (1) The Plaintiff Efrain Reyes' Motion for Summary Judgment is DENIED.
- (2) The Defendants shall furnish to the Court and the Plaintiff an explanation of all documents produced in response to this Court's September 1, 1999 Order, or an explanation as to why no such documents were produced on or before February 28, 2000.
- (2) The Defendants' Motion for an Enlargement of Time to File a Motion for Summary Judgment is GRANTED. All dispositive motions shall be filed on or before March 17, 2000.

BY THE COURT:

JAMES MCGIRR KELLY, J.