

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

RONALD B. WESLEY : CIVIL ACTION
 :
 v. :
 :
 DONALD T. VAUGHN, et al. : No. 99-1228

MEMORANDUM AND ORDER

J. M. KELLY, J. FEBRUARY , 2001

Presently before the Court is a Renewed Motion for Summary Judgment filed by the Defendants Donald T. Vaughn ("Vaughn"), William D. Conrad ("Conrad"), Tyrone Reddick ("Reddick"), Eric Thompson ("Thompson"), James Yankura ("Yankura"), Robert Cavalari ("Cavalari") and Richard Eldridge ("Eldridge") (collectively referred to as the "Defendants"). The Plaintiff, Ronald B. Wesley ("Wesley"), filed suit in this Court alleging several violations of his civil rights. This Court granted, in part, Defendants' Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). Defendants now seek summary judgment pursuant to Federal Rule of Civil Procedure 56(c) on Wesley's remaining claims. For the following reasons, Defendants' motion is granted in part and denied in part.

I. BACKGROUND

Accepting as true the evidence of the nonmoving party, and

all inferences that can be drawn therefrom, the facts of the case are as follows. Wesley is an inmate at the Pennsylvania State Correctional Institution at Graterford ("Graterford"). The Defendants are all employees at Graterford. The genesis of Wesley's Complaint is Graterford's continued practice of locking the shower room door at the end of scheduled shower periods. Wesley alleges that he was twice locked in the shower, which exacerbated his asthma and made him sick. Wesley claims that the guards actions effectively discriminated against him on the basis of his disability.¹

The first incident occurred on October 19, 1996. According to the Complaint, at approximately 7:00 p.m. that evening, Wesley entered the B-Block shower room at Graterford. Shortly after Wesley entered, Defendant Cavalari locked the shower room door. Upon completing his shower and finding himself locked in, Wesley began knocking on the door to be let out, but he was not immediately heard.² Accordingly, no one came to open the door for him. Unable to either turn down the temperature of the water

¹ Plaintiff also claimed that this practice constitutes cruel and unusual punishment in violation of the Eighth Amendment to the United States Constitution. The Court dismissed that claim.

² The cell block was very noisy because the incident occurred during "block out," the time when the inmates in a cell block are allowed out of their cells.

or open a window,³ Wesley became lightheaded, numb and dizzy as the shower filled with a thick layer of steam. Another inmate saw Wesley's distress and retrieved Defendant Yankura, who immediately unlocked and opened the shower door. Wesley took a few steps, went limp, began hyperventilating and then suffered an asthma attack. Wesley was placed on a gurney and two nurses transported him to the dispensary where he received medical assistance. At approximately 10:00 p.m., Wesley returned to his cell.

Exactly two years later, on October 19, 1998, Wesley was again locked in a Graterford shower. This shower was located in D-Block, where Wesley now resided. Defendants Cavalari and Yankura, who had been involved in the 1996 incident, were not stationed in D-Block.

When Wesley finished showering, at approximately 7:00 p.m., he tried to leave the shower but again found himself locked inside. The steam quickly accumulated in the shower, hindering Wesley's ability to breathe and causing numbness in his extremities. As a result, he was unable to knock at the door for

³ According to the Complaint, the inmates have no control over the hot and cold water valves. It is unclear, however, why Wesley did not simply turn the water off. In any event, it seems that the only way to reduce the build-up of steam is to open the window or the door. That night the door was locked and Wesley could not open the window because the knob lacked a "carter pin," causing it to loosely spin in his hand without engaging the window.

assistance.⁴ Wesley began hyperventilating and suffered another asthma attack. Approximately ten minutes later, Defendant Eldridge appeared and opened the shower door.⁵ Wesley was able to walk to his cell where he used his asthma inhaler. About fifteen minutes later, the tightness in his chest subsided and his breathing returned to normal. Wesley then dressed and went to find Eldridge. He asked Eldridge, "Why did you lock me in the shower room when I told you I had asthma?" Plf.'s Compl. ¶ 30. Eldridge responded, "I'm just following orders." Id.

The next day, Wesley began a more formal process of lodging his complaint. He first complained to Defendant Reddick, the D-Block Lieutenant. Reddick informed Wesley that the officers locked the shower doors at "closing time," namely the end of the shower period, in order to prevent other inmates from entering the shower. Dissatisfied with Reddick's response, Wesley filed an inmate grievance on October 21, 1998. Defendant Conrad, the D-Block manager, responded to the grievance stating, "We no longer lock inmates in the showers at shift change, 2 p.m." Plf.'s Compl., Ex. B. Wesley found this response unacceptable, presumably because his incident had occurred during the evening

⁴ It would seem that the numbness in Wesley's extremities also precluded him from opening a window, which ostensibly would not have been broken in D-Block, or from turning off the water altogether.

⁵ Wesley alleges that Eldridge locked him in the shower.

shower period rather than at the guards' shift change.⁶ He then wrote a memorandum to Conrad, stating that while the first shift officers no longer locked inmates in the shower at the 2:00 p.m. shift change, the second shift officers continued to lock the showers after the 7:00 p.m. shower period. Wesley subsequently appealed to Defendant Vaughn, the Superintendent of Graterford, requesting further review of the matter. Vaughn replied that the showers were only locked at 3:30 p.m. for lock up and that the showers were no longer locked for the 2:00 p.m. shift change. He apparently made no mention of the 7:00 p.m. shower period. Still dissatisfied with his response, Wesley made a formal request for final review by the Central Office Review Committee of Graterford's policy of locking the shower doors at 7:00 p.m.

Finally, Wesley filed suit in this Court against the Defendants in their official and individual capacities seeking declaratory and injunctive relief, and compensatory damages, pursuant to 42 U.S.C. § 1983 (1994) and the Americans with Disabilities Act ("ADA"), 42 U.S.C. §§ 12131-12134 (1994). Defendants filed a Motion to Dismiss pursuant to Federal Rule of

⁶ Graterford has three scheduled shower periods: 9:15 a.m. to 10:30 a.m.; 1:15 p.m. to 3:30 p.m.; and 6:00 p.m. to 7:00 p.m. The showers were locked after each shower period, and in some Blocks were also locked at 2:00 p.m. while the guards changed their shifts. Both of Wesley's asthma attacks occurred during the evening shower periods. Wesley prefers to shower in the evening after most of the other inmates have already left the shower. He also takes abnormally long showers, contrary to Graterford policy, he prefers to wash his clothes in the shower.

Civil Procedure 12(b)(6), which the Court granted in part and denied in part. The Court dismissed all claims arising out of the October 19, 1996 incident because Wesley filed his Complaint well after the time prescribed by the applicable statute of limitations. The Court dismissed other claims as well. Three of Wesley's claims did, however, survive that motion to dismiss. Wesley's remaining claims include: (1) an ADA claim against the Defendants, in their official capacities, seeking injunctive relief; (2) a § 1983 claim based on ADA violations by Defendants, in their official capacities, seeking injunctive relief; and (3) a § 1983 claim based on ADA violations by Defendants, in their official and individual capacities, for injunctive relief and damages. Defendants filed the instant Renewed Motion for Summary Judgment on Wesley's remaining claims, which the Court will now consider.

II. STANDARD OF REVIEW

Pursuant to Federal Rule of Civil Procedure 56, a court must grant summary judgment "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). The movant bears the initial burden of showing the basis for its motion. Celotex

Corp. v. Catrett, 477 U.S. 317, 323 (1986). If the movant fails to meet this burden under Rule 56(c), its motion must be denied.

If the movant adequately supports its motion, however, the burden shifts to the nonmoving party to defend the motion. To satisfy this burden, the nonmovant must go beyond the mere pleadings by presenting evidence through affidavits, depositions or admissions on file to show that a genuine issue of fact for trial does exist. Id. at 324; Fed. R. Civ. P. 56(e). An issue is considered genuine when, in light of the nonmovant's burden of proof at trial, the nonmovant produces evidence such that a reasonable jury could return a verdict against the moving party. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). When deciding whether a genuine issue of fact exists, the court is to believe the evidence of the nonmovant, and must draw all reasonable inferences in the light most favorable to the nonmovant. Id. at 255. Moreover, a court must not consider the credibility or weight of the evidence presented, even if the quantity of the moving party's evidence far outweighs that of the nonmovant. Big Apple BMW, Inc. v. BMW of N. Am., Inc., 974 F.2d 1358, 1363 (3d Cir. 1992). Nonetheless, a party opposing summary judgment must do more than rest upon mere allegations, general denials, or vague statements. Trap Rock Indus., Inc. v. Local 825, 982 F.2d 884, 890 (3d Cir. 1992).

If the nonmoving party meets this burden, the motion must be

denied. If the nonmoving party fails to satisfy its burden, however, the court must enter summary judgment against it on any issue on which that party will bear the burden of proof at trial. Celotex, 477 U.S. at 322-23.

III. DISCUSSION

A. Defendants Cavalari and Yankura

In response to the Defendants' Motion to Dismiss, the Court dismissed as time-barred any claims stemming from the October 19, 1996 incident. Only claims relating to the October 19, 1998 incident remain. Defendants now ask the Court to dismiss all charges against Defendants Cavalari and Yankura, who were not involved in the October 19, 1998 incident. Wesley agrees that all claims against these two individual Defendants should be dismissed. Accordingly, the Court will grant summary judgment in favor of Defendants Cavalari and Yankura.

B. Wesley's Claims for Injunctive Relief under the ADA

Wesley's remaining claim under the ADA seeks only injunctive relief in the form of a court order enjoining the Defendants from locking him in the shower. Defendants seek summary judgment on any claim for injunctive relief because Wesley is no longer

located in either cell block where he was locked in the shower.

The first incident, in 1996, occurred in B-Block. The October 19, 1998 incident that gives rise to Wesley's remaining claims took place in Graterford's D-Block. Shortly after the 1998 incident, however, Wesley was relocated to E-Block. Defendants' contend that, because Wesley has admitted he has never been locked in the E-Block shower, his claim for injunctive relief regarding events that occurred in D-block are moot. Cf. Weaver v. Wilcox, 650 F.2d 22, 27 n.13 (3d Cir. 1981); Wilson v. Prasse, 325 F. Supp. 9, 12 (W.D. Pa. 1971).

The Court finds that there are genuine issues of material fact regarding whether E-Block policies would allow a recurrence of the incidents that motivated Wesley's Complaint. That Wesley has not been locked in the E-Block shower does not mean that he could not be in the future. Indeed, moving from B-Block to D-Block did not prevent Wesley from being locked in the shower a second time. Moreover, as Wesley has not left Graterford altogether, he could always be transferred back to cell block B or D. Finally, to find Wesley's claims in this case moot would be to encourage prisons to transfer inmates between cell-blocks in a thinly veiled attempt to avoid liability for their alleged misfeasance. Because the evidence currently before the Court raises genuine issues of material fact concerning E-Block's policies, Wesley's claims for injunctive relief are not moot and

his ADA claim for injunctive relief can continue.⁷ Accordingly, the Court will deny the Defendants' Motion for Summary Judgment with regard to Wesley's claim for injunctive relief under the ADA.

C. Section 1983 and the ADA

Two of Wesley claims that survived the Defendants' Motion to Dismiss were § 1983 actions premised on alleged violations of the ADA. These claims, brought against the Defendants in their official and individual capacities, seek both injunctive and compensatory relief. The Defendants ask the Court to dismiss these claims because they argue that plaintiffs cannot bring § 1983 actions for violations of the ADA

Section 1983 states that any person acting under color of state law that deprives someone of a federal constitutional or statutory right shall be liable to the injured party. 42 U.S.C. § 1983. In this case, the Defendants, prison guards, clearly constituted persons acting under color of state law when they locked Wesley in the shower. The question therefore becomes whether that action deprived Wesley of a cognizable federal statutory right that allows redress pursuant to § 1983.

⁷ Because the Defendants have not challenged the sufficiency of Wesley's case under the applicable burden shifting paradigm, the Court will not reach the merits of his prima facie case of discrimination under the ADA.

Section 1983 generally allows for suits when defendants violate a federal statute. In certain situations, however, § 1983 remedies are unavailable. First, certain statutes, though technically violated, do not establish a substantive federal right that would give rise to § 1983 liability. Blessing v. Firestone, 520 U.S. 329, 340-41 (1997). Second, Congress can specifically provide that remedies under § 1983 are unavailable by either: (1) explicitly precluding § 1983 remedies in the statute itself; or (2) creating a comprehensive statutory enforcement scheme that implicitly evidences an intent to foreclose § 1983 remedies. Middlesex County Sewerage Auth. v. National Sea Clammers Ass'n, 453 U.S. 1, 20 (1981).

The parties seem to agree that the ADA creates an enforceable federal right that would typically give rise to § 1983 liability. Therefore, a strong presumption arises that Congress intended to allow remedies under § 1983 for violations of that statute, and the burden rests with the Defendants to show otherwise. See Golden State Transit Corp. v. City of Los Angeles, 493 U.S. 103, 107 (1989); see also Johnson v. Orr, 780 F.2d 386, 395 (3d Cir. 1986) (stating that "ruling out certain remedies" is appropriate "only when it can be clearly inferred that Congress intended their preemption."). The Defendants contend, however, that Congress implicitly intended to preclude plaintiffs from using § 1983 actions to remedy violations of the

ADA. The courts have not been able to reach a consensus on whether the ADA's enforcement scheme is so comprehensive that it evidences Congress's intent to foreclose § 1983 actions.⁸ Nonetheless, the Court finds that the ADA's enforcement scheme precludes litigants from also seeking remedies under § 1983. The statutory scheme of the ADA is clearly comprehensive; allowing plaintiffs to sue under § 1983 would not add anything to their substantive rights, other than allowing them to obtain attorney's fees and circumvent the statute's administrative procedures by proceeding directly to federal court. Holbrook v. City of Alpharetta, 112 F.3d 1522, 1531 (11th Cir. 1997). The argument that the statute is not comprehensive without its administrative regulations misses the mark, as the regulations are anticipated and enabled by the statute itself. But see Ransom v. Arizona Bd.

⁸ Most courts to consider this question have found that Congress did not intend to allow plaintiffs to remedy violations of the ADA by bringing suit under § 1983. See Alsbrook v. City of Maumelle, 184 F.3d 999, 1011-12 (8th Cir. 1999) (precluding § 1983 action); Pona v. Cecil Whittaker's, Inc., 155 F.3d 1034, 1037 (8th Cir. 1998) (same); Holbrook v. City of Alpharetta, 112 F.3d 1522, 1530 (11th Cir. 1997) (same); Kagan v. Nevada, 35 F. Supp. 2d 771, 772-73 (D. Nev. 1999) (same); Meara v. Bennett, 27 F. Supp. 2d 288, 291-92 (D. Mass. 1998) (same); Coffey v. County of Hennepin, 23 F. Supp. 2d 1081, 1089-90 (D. Minn. 1998); Houck v. City of Prairie Village, 978 F. Supp. 1397, 1405 (D. Kan. 1997); Krocka v. Bransfield, 969 F. Supp. 1073, 1090 (N.D. Ill. 1997) (same); see also Metzgar v. Lehigh Valley Hous. Auth., No. 98-3304, 1999 WL 562756, *4 (E.D. PA. July 27, 1999) (same). But see Ransom v. Arizona Bd. of Regents, 983 F. Supp. 895, 903 (D. Ariz. 1997) (allowing § 1983 action), and Independent Hous. Servs. v. Fillmore Ctr. Ass'n, 840 F. Supp. 1328, 1345 (N.D. Cal. 1993) (same).

of Regents, 983 F. Supp. 895, 904 (D. Ariz. 1997). Second, the ADA contains no savings clause that would allow § 1983 claims despite an otherwise comprehensive statutory scheme. The Court therefore finds that plaintiffs may not bring § 1983 actions for violations of the ADA.⁹ Accordingly, the Court will enter judgment in favor of the Defendants on Wesley's claims under § 1983.

⁹ Because the Court finds that Wesley cannot maintain his § 1983 actions against the Defendants, the Court will not reach the question of whether the Defendants enjoyed qualified immunity, as a matter of law, for their actions.

BY THE COURT:

JAMES MCGIRR KELLY, J.