

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

CHRISTOPHER ALLEN JONES : CIVIL ACTION
: :
v. : :
: :
GEORGE WAGNER, WARDEN, BERKS :
COUNTY PRISON, C.O. WITT and :
C.O. BRADBURY : NO. 04-cv-05268-JF

MEMORANDUM AND ORDER

Fullam, Sr. J.

March 14, 2006

Plaintiff, a *pro se* prisoner, was granted leave to proceed *in forma pauperis* in this civil rights action.

Initially, his application for the appointment of counsel was granted, but, after several attorneys reviewed his case and refused to accept appointment to represent him, the order for appointment of counsel was vacated, and plaintiff has been required to proceed *pro se*.

Generously interpreted, his complaint can be read as asserting: (1) that it was a violation of his constitutional rights for him to be confined to Berks County Prison, when he should have been confined in a state institution; (2) that one or more of the defendants failed to protect him from vicious assaults by fellow inmates; and (3) that he was denied access to the necessary paperwork for filing grievances.

Defendants took plaintiff's deposition, and now use it as the primary basis for their motion for summary judgment. It appears, from plaintiff's own testimony, that he was involved in

a fight with another inmate; that the corrections officers broke up the fight and sent plaintiff back to his own cell, at which time they noticed that he had sustained a cut on his wrist. It further appears that plaintiff was given prompt medical attention. Plaintiff admits that he never was in fear for his own safety, nor did he ever complain to prison authorities on that subject. (At the time of his deposition, plaintiff was 6'5" tall and weighed in excess of 300 pounds.) Plaintiff had access to the prison handbook, and was not precluded from filing grievances. In short, on the basis of plaintiff's deposition testimony, it is clear that he has no conceivable claim for violation of his constitutional rights by any of the defendants. Defendants' motion for summary judgment will therefore be granted.

An Order follows.

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ORDER

AND NOW, this 14th day of March 2006, upon
consideration of defendants' motion for summary judgment, IT IS
ORDERED:

1. That the motion is GRANTED.
2. This action is DISMISSED with prejudice.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.