

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

MITCHELL D. HOWARD : CIVIL ACTION
 :
 v. :
 :
 DELAWARE COUNTY PRISON, et al. : NO. 05-5203

MEMORANDUM

Padova, J.

April , 2006

Plaintiff, Mitchell D. Howard, has brought this action raising federal constitutional claims pursuant to 42 U.S.C. § 1983. Before the Court are the motions to dismiss filed by Defendants the Delaware County Prison (“the Prison”)¹ and Warden Ronald Nardolillo and the motion for judgment on the pleadings filed by Defendant Riddle Memorial Hospital (“Riddle”). Plaintiff, who is pro se, has failed to respond to any of the motions. For the reasons which follow, the motions filed by Nardolillo and Riddle are granted and the motion filed by the Prison is denied.

I. FACTUAL BACKGROUND

Plaintiff sued Defendants under 42 U.S.C. § 1983 alleging that he was subjected to cruel and unusual punishment in violation of the Eighth Amendment because he was denied adequate medical care. Plaintiff alleges that, on November 12, 2004, he was detained at the Prison awaiting trial and he fell from the top bunk in his cell while he was asleep. After falling, he asked to see a doctor but, instead, was directed to see a nurse. He admits that he was given some medication by medical staff at the Prison, but he says no X-rays or MRIs were taken. Plaintiff alleges that his medication was subsequently stopped and his requests for further medical treatment were ignored. He also alleges

¹The Delaware County Prison is now know as the George W. Hill Correctional Facility. For the sake of convenience, the Court will refer to this structure as the Prison.

that he continues to suffer severe pain from the injury to his shoulder. (Compl. p. 3, 4.)

In its Answer, Riddle states that it does not provide any medical services at the Prison. Instead, Riddle has a contract with the Facility to provide medical services on Riddle's premises, when inmates from the Facility require medical services at Riddle. Riddle denies having treated Plaintiff at any time material to the complaint. (Ans. p. 3.)

II. LEGAL STANDARD

When deciding a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6), the Court may look only to the facts alleged in the complaint and its attachments. Jordan v. Fox, Rothschild, O'Brien & Frankel, 20 F.3d 1250, 1261 (3d Cir. 1994). The Court must accept as true all well-pleaded allegations in the complaint and view them in the light most favorable to the Plaintiff. Angelastro v. Prudential-Bache Securities, Inc., 764 F.2d 939, 944 (3d Cir. 1985). However, the Court "need not credit a complaint's 'bald assertions' or 'legal conclusions.'" California Pub. Employee Ret. Sys. v. The Chubb Corp., 394 F.3d 126, 143 (3d Cir. 2004) (citing Morse v. Lower Merion School Dist., 132 F.3d 902, 906 (3d Cir. 1997)). A motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) will be granted when a Plaintiff cannot prove any set of facts, consistent with the complaint, which would entitle him or her to relief. Ransom v. Marrazzo, 848 F.2d 398, 401 (3d Cir. 1988). Likewise, when deciding a motion for judgment on the pleadings pursuant to Fed. R. Civ. P. 12(c), the standard applied is the same as for a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6). Mele v. Federal Reserve Bank of New York, 359 F.3d 251, 253 (3d Cir. 2004).

III. DISCUSSION

Plaintiff claims that Defendants violated his constitutional right to adequate medical care. The Supreme Court has determined that "failure to provide adequate treatment is a violation of the

Eighth Amendment when it results from “deliberate indifference to a prisoner's serious illness or injury.” Estelle v. Gamble, 429 U.S. 97, 105 (1976). Pre-trial detainees such as Plaintiff are similarly entitled to adequate medical care pursuant to the Due Process Clause. Kost v. Kozakiewicz, 1 F.3d 176, 188 (3d Cir. 1993). The “Due Process rights of a pretrial detainee are at least as great as the Eighth Amendment protections available to a convicted prisoner.” Id. (citation omitted). In order to state a claim that the medical care provided by Defendants violated his constitutional rights, Plaintiff must allege that his medical needs were serious and that prison officials were deliberately indifferent to those needs. Inmates of Allegheny County Jail v. Pierce, 612 F.2d 754, 762 (3d Cir. 1979). The Supreme Court has held that:

a prison official cannot be found liable under the Eighth Amendment for denying an inmate humane conditions of confinement unless the official knows of and disregards an excessive risk to inmate health or safety; the official must both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference.

Farmer v. Brennan, 511 U.S. 825, 837 (1994). In order to state a claim for deliberate indifference, Plaintiff has to allege more than medical malpractice. Estelle v. Gamble, 429 U.S. at 105 (“a complaint that a physician has been negligent in diagnosing or treating a medical condition does not state a valid claim of medical mistreatment under the Eighth Amendment. Medical malpractice does not become a constitutional violation merely because the victim is a prisoner.”); Parham v. Johnson, 126 F.3d 454, 458 n.7 (3d Cir. 1997) (“We recognize the well-established law in this and virtually every circuit that actions characterizable as medical malpractice do not rise to the level of ‘deliberate indifference’ under the Eighth Amendment.”). The Court of Appeals for the Third Circuit has recognized that when “prison authorities prevent an inmate from receiving recommended treatment

for serious medical needs or deny access to a physician capable of evaluating the need for such treatment, the constitutional standard of Estelle has been violated.” Inmates of Allegheny County Jail, 612 F.2d at 762.

A. Defendant Nardolillo

Nardolillo has moved to dismiss the complaint on the ground that the complaint fails to allege he was personally involved in or knowingly acquiesced in the denial of medical care Plaintiff alleges. Defendant Nardolillo is the Warden of the Delaware County Prison. As the supervisor of the Delaware County Prison, he could held liable for the denial of adequate medical care if he directly participated in the denial of adequate medical care, if he personally directed that his subordinates deny Plaintiff adequate medical care, or if he had actual knowledge that his subordinates were denying Plaintiff adequate medical care and he acquiesced in the denial of adequate medical care. See Andrews v. City of Philadelphia, 895 F.2d 1469, 1478 (3d Cir. 1990).

In the complaint, Plaintiff fails to allege that Nardolillo participated in the alleged denial of adequate medical care, that he directed his subordinates to deny Plaintiff adequate medical care, or that he had actual knowledge that his subordinates were denying Plaintiff adequate medical care and he acquiesced in that denial. The complaint fails to allege any personal involvement by Nardolillo in the denial of medical care, indeed, he is not even mentioned in the statement of claim. (Compl. p. 4.) Because Plaintiff has failed to properly allege Nardolillo’s personal involvement in the alleged denial of medical care, he fails to state a claim against Nardolillo. See Andrews, 895 F.2d at 1478. Therefore, Nardolillo’s motion is granted.

B. Defendant Delaware County Prison

The Prison moves to dismiss the complaint against it on the ground that it is not a legal entity

amenable to suit but, instead, merely the name of a correctional facility. The Prison has raised the same argument in two other cases filed in this court. Derrickson v. Hill, Civ. A. No. 97-5484, 2000 WL 378134 (E.D. Pa. April 13, 2000); Lewis v. Delaware County, Civ. A. No. 95-7418, 1996 WL 665529 (E.D. Pa. Nov. 12, 1996). In both cases, the court noted that the Prison's capacity to be sued should be determined by state law. Derrickson, 2000 WL 378134, at *1 n.1 (citing Fed. R. Civ. P. 17(b)); Lewis, 1996 WL 665529, at *1 (same). In both cases, the court declined to find in the Prison's favor because the Prison had failed to identify any Pennsylvania authority which held that a county prison lacks the capacity to be sued. Id. In this case, the Prison has also failed to cite any Pennsylvania authority to support its contention that it lacks the capacity to be sued. In addition, the Court has failed to find any Pennsylvania authority which specifically addresses whether a county prison has the capacity to be sued.² The court will follow Derrickson and Lewis and the Prison's motion to dismiss is, therefore, denied.

C. Defendant Riddle

In its answer, Riddle states that it has a contract with the Prison to treat inmates on its (Riddle's) premises. (Ans. p. 3.) Riddle also states that it provides no medical services at the Prison, nor does it furnish any employees, contractors or agents to provide medical services at the Prison. Id. Riddle further states that, during the time relevant to the complaint, Plaintiff was not admitted to Riddle for medical treatment. Id. For these reasons, Riddle argues judgment should be entered in its favor. Riddle has supported its argument by attaching to its motion for judgment on the pleadings a copy of its contract to provide medical services to the Facility and a declaration

²The Court notes that, under Pennsylvania law, a county has the capacity to sue and be sued. 16 P.S. § 202(2). However, this statute does not address whether county prisons have the capacity to sue or be sued.

submitted pursuant to 28 U.S.C. § 1746 by Robert J. Santilli, its Executive Vice President and Chief Operating Officer. These documents were not attached to Riddle's answer. If the Court were to consider these documents which were not part of Riddle's answer, its motion for judgment on the pleadings would have to be treated as one for summary judgment. Fed. R. Civ. P. 12(c). However, the Court declines to consider these documents and will consider only the pleadings.

In the complaint, Plaintiff does not allege that Riddle ever provided him with any medical care. He also does not allege that Riddle had a role in deciding what medical care he was to receive at the Prison or whether he was to be taken to Riddle for the purpose of receiving medical care. Indeed, Plaintiff fails to allege any involvement by Riddle in the treatment for the November 12, 2004 shoulder injury that is the basis for his complaint. In light of what Plaintiff has alleged in the complaint, he cannot prove a set of facts which will demonstrate Riddle violated his constitutional right to adequate medical care. Therefore, Riddle's motion for judgment on the pleadings is granted.

IV. CONCLUSION

For the foregoing reasons, Defendant Nardolillo's motion to dismiss is granted, Defendant Riddle's motion for judgment on the pleadings is granted, and Defendant Delaware County Prison's motion to dismiss is denied. An appropriate order follows.

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ORDER

AND NOW, this day of April, 2006, upon consideration of Defendant Ronald Nardolillos' Motion to Dismiss the Complaint (Docket No. 12), Defendant Riddle Memorial Hospital's Motion for Judgment on the Pleadings (Docket No. 15), and Defendant Delaware County Prison's Motion to Dismiss the Complaint (Docket No. 17), **IT IS HEREBY ORDERED** as follows:

1. Defendant Nardolillo's Motion to Dismiss is **GRANTED**;
2. Defendant Riddle Memorial Hospital's Motion for Judgment on the Pleadings is **GRANTED**; and
3. Defendant Delaware County Prison's Motion to Dismiss is **DENIED**.

BY THE COURT:

John R. Padova, J.