

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

<b>TREVOR MATTIS,</b>	:	
<b>Plaintiff,</b>	:	<b>CIVIL ACTION</b>
	:	
<b>v.</b>	:	
	:	
<b>DOHMAN, et al.,</b>	:	<b>No. 05-465</b>
<b>Defendants.</b>	:	

**MEMORANDUM AND ORDER**

**Schiller, J.**

**May 4, 2007**

*Pro se* Plaintiff Trevor Mattis brings this civil rights action against Pennsylvania prison officials alleging, *inter alia*, retaliation in violation of the First Amendment and deprivation of property without due process of law in violation of the Fourteenth Amendment. Defendants Captain Dohman, D. Vaughn, Sharon Burks, Major Buzzar, Sgt. Curran, Leslie Hatcher, CO Quick, CO Smaller, Sobina, Sgt. Sterle, and Lt. Veshinski filed a motion to dismiss Plaintiff’s Amended Complaint. For the reasons that follow, Defendants’ motion is granted.

**I. BACKGROUND<sup>1</sup>**

During the incidents alleged in this action, Mattis was incarcerated at three different Pennsylvania state prisons. (Am. Compl. ¶ 5.) In 2002, Mattis was housed in the State Correctional

---

<sup>1</sup> This case was reassigned from Judge Herbert J. Hutton to this Court on April 27, 2006. Plaintiff attempts to include five additional defendants in his Amended Complaint: CO Dietz, John Doe, CO Taylor, Lt. Smith and George Patrick. These individuals are not parties to this action; Judge Hutton denied Plaintiff leave to amend his Complaint with respect to the addition of these five defendants. (*See* Feb. 17, 2006 Order (granting in part and denying in part Plaintiff’s Motion for Leave to File an Amended Complaint).) Furthermore, as per Judge Hutton’s February 17, 2006 Order, this action is limited to events occurring prior to Plaintiff’s commencement of this lawsuit on February 2, 2005. (*Id.*) Accordingly, the Court does not address the factual averments in Plaintiff’s Amended Complaint that relate to other prison officials or that occurred after this action was filed.

Institute (“SCI”) at Graterford. (*Id.* ¶¶ 5, 36.) He was transferred to SCI Somerset on September 3, 2003. (*Id.* ¶ 109.) Mattis is currently incarcerated at SCI Houtzdale. (*Id.* ¶ 136.) Defendants Dohman, Veshinski, Vaughn, Curran, Smaller, Quick, Buzzar and Hatcher were prison officials at SCI Graterford and Defendants Sobina and Sterle were prison officials at SCI Somerset during the relevant time periods. (*Id.* ¶¶ 6-10, 12-13.) Defendant Burks was the head Grievance Coordinator for Pennsylvania’s Department of Corrections. (*Id.* ¶ 11.)

In May 2002, an inmate at Graterford named Andre Williams agreed to transfer ownership of his musical instruments and equipment, including a keyboard, amplifier, stand, case and box of discs, to Mattis. (*Id.* ¶ 36.) Upon request, Defendant Veshinski authorized the transfer, and Mattis avers that, as of July 2002, he was the sole legitimate owner of the musical equipment. (*Id.* ¶¶ 37-45, 46.) Mattis eventually obtained a registration “proof of ownership” form from the music department for his equipment and instruments, which Veshinski signed. (*Id.* ¶¶ 58-60.)

In December 2002, Mattis was informed by other inmates that Defendant Dohman, head of security at Graterford, was aware of Mattis’ critical writings about Graterford prison officials and also had a life size “mug shot” of Mattis hung on the wall of his office. (*Id.* ¶¶ 25, 27.) In the three weeks that followed, Mattis’ cell was searched approximately five times. (*Id.* ¶¶ 28-29.) During one of these searches Defendant Quick stated to Mattis, “man you got someone really mad at you.” (*Id.* ¶¶ 30, 35.)

During a search of Mattis’ cell on January 21, 2003, contraband was found, including a cell phone and a screwdriver. (*Id.* ¶¶ 61-62.) Mattis was interrogated by Dohman that same day, and after refusing to identify the staff members responsible for bringing the cell phone into the prison, Mattis was taken to the restricted housing unit (“RHU”) and issued two misconducts for contraband.

(*Id.* ¶¶ 62, 64-67.) Mattis was sanctioned for 180 days as a result of the January 21, 2003 search; he did not challenge the cell phone misconduct but attempted to challenge the screwdriver misconduct as a separate charge. (*Id.* ¶¶ 67-70.)

While Mattis was in the RHU, certain officers informed him that some of his musical equipment had been confiscated. (*Id.* ¶ 77.) On April 2, 2003, after Mattis filed numerous grievances, Veshinski took him to retrieve his musical equipment. (*Id.* ¶¶ 78-86.) Mattis reported to Veshinski that approximately twenty discs with his original musical compilations were missing. (*Id.* ¶¶ 87-88.) When Mattis filed a grievance about the missing discs, he was informed by Defendant Buzzar that his possession of the musical equipment was illegal and the equipment would be returned to its rightful owner. (*Id.* ¶¶ 92-95.) Mattis sent Buzzar his registration “proof of ownership” form and asked Buzzar to reconsider. (*Id.* ¶ 96.) When Buzzar did not respond, Mattis filed an appeal to Defendants Vaughn and Hatcher. (*Id.* ¶¶ 97-98.) They denied Mattis’ appeal as untimely. (*Id.* ¶ 100.) Mattis appealed to Defendant Burks, who held that Mattis failed to file his initial grievance within fifteen days of the confiscation of the musical equipment on January 21, 2003. (*Id.* ¶¶ 101-103.)

One week after his transfer to Somerset, Mattis’ musical equipment arrived, but Defendant Sterle informed Mattis that he would not allow the keyboard or amplifier into the prison because they were too large. (*Id.* ¶¶ 107-13.) Mattis filed a grievance on September 22, 2003. (*Id.* ¶ 117.) That same day, Sterle shipped the musical equipment back to Graterford. (*Id.* ¶ 118.) In October 2003, Mattis’ grievance was denied for two stated reasons: (1) Mattis was not the owner of the musical equipment; and (2) the keyboard exceeded 61 keys in violation of prison policy. (*Id.* ¶ 119.) Mattis filed an appeal to Defendant Superintendent Sobina and this appeal was denied. (*Id.* ¶¶ 120, 127.)

Mattis filed a final appeal to Burks which was also denied. (*Id.* ¶¶ 128-29.)

Mattis wrote to numerous prison personnel at Graterford, including Defendants Veshinski and Curran, to attempt to retrieve his musical equipment, but no one responded. (*Id.* ¶¶ 130-35.) After Mattis was transferred to Houtzdale in October 2003, he attempted to file another grievance with Defendant Hatcher at Graterford to have his musical equipment shipped to him. (*Id.* ¶¶ 136, 141.) Hatcher refused to process the grievance. (*Id.* ¶ 142.) In December 2003, Mattis was informed by a prison official at Houtzdale that the musical equipment had been given back to inmate Andre Williams at Graterford. (*Id.* ¶¶ 143-44.)

## II. STANDARD OF REVIEW

In considering a motion to dismiss for failure to state a claim upon which relief may be granted, a court must accept as true all factual allegations pleaded in the complaint and draw all reasonable inferences in favor of the non-moving party. *Bd. of Trs. of Bricklayers & Allied Craftsmen Local 6 of N.J. Welfare Fund v. Wettlin Assocs.*, 237 F.3d 270, 272 (3d Cir. 2001). A motion to dismiss will be granted only if it is clear that the plaintiff cannot obtain relief under any set of facts that could be proven consistent with the allegations in the complaint. *Hishon v. King & Spalding*, 467 U.S. 69, 73 (1984) (*citing Conley v. Gibson*, 355 U.S. 41, 45-46 (1957)).

Because it appears on the face of Plaintiff's Amended Complaint that his civil rights claims may be barred by the applicable statute of limitations, the limitations defense is properly raised at this stage of the proceedings. *See Arizmendi v. Lawson*, 914 F. Supp. 1157, 1160 (E.D. Pa. 1996).

### III. DISCUSSION

#### A. Plaintiff Fails to State a First Amendment Retaliation Claim

It is well-established that prison officials cannot retaliate against prisoners for the exercise of their First Amendment rights. *White v. Napoleon*, 897 F.2d 103, 111 (3d Cir. 1990). A prisoner attempting to establish a retaliation claim must show that: (1) he engaged in constitutionally protected conduct; (2) he suffered some adverse action by prison officials; and (3) the protected conduct was the cause of the adverse action. *Rausser v. Horn*, 241 F.3d 330, 333-34 (3d Cir. 2001). In order to show causation, the prisoner must demonstrate that “his protected conduct was a substantial motivating factor for the defendant’s actions.” *Anderson v. Vaughn*, 125 F.3d 148, 163 (3d Cir. 1997).

The Court acknowledges that by writing articles critical of Pennsylvania’s prison system and Graterford prison officials, Mattis was engaged in constitutionally protected speech. *See Pell v. Procunier*, 417 U.S. 817 (1974) (prisoners afforded First Amendment protection for speech). The Court even accepts that the repeated searches of Mattis’ prison cell and the confiscation of his musical equipment might qualify as adverse actions on the part of prison officials. However, the Court agrees with Defendants that Mattis fails to plead adequately the causation element of a retaliation claim. (*See* Defs.’ Mem. of Law in Supp. of Mot. to Dismiss at 15-16.)

The only Defendant who Mattis asserts was aware of his critical writings was Dohman. Without knowledge of Mattis’ writings, none of the other Defendants could have been motivated to retaliate against Mattis *because of* such writings. *See Ambrose v. Twp. of Robinson*, 303 F.3d 488, 493 (3d Cir. 2002) (“It is only intuitive that for protected conduct to be a substantial or motivating factor in a decision, the decisionmakers must be aware of the protected conduct.”)

Furthermore, Mattis cannot state a retaliation claim against Dohman because the two-year statute of limitations has run. *See Sameric Corp. of Del. Inc. v. City of Phila.*, 142 F.3d 582, 599 (3d Cir. 1998) (Section 1983 claim borrows forum state’s personal injury limitations period); 42 PA. CONS. STAT. ANN. § 5524 (2007) (two year statute of limitations for personal injury in Pennsylvania). As described in Plaintiff’s Amended Complaint, the last relevant action Dohman took was to question Mattis on January 21, 2003, immediately following the search of Mattis’ cell. Mattis did not commence this action until over two years later, on February 2, 2005, when he filed a petition to proceed *in forma pauperis*. Thus, Plaintiff’s retaliation claim against Defendant Dohman is time-barred.

Accordingly, Plaintiff fails to state a First Amendment retaliation claim, and Defendants’ motion to dismiss this claim is granted.

**B. Plaintiff Fails to State a Procedural Due Process Claim**

The Fourteenth Amendment guarantees that no state shall “deprive any person of life, liberty, or property, without due process of law.” U.S. CONST. amend. XIV, § 1. To establish a valid due process claim a plaintiff must show: “(1) the existence of a protected life, liberty or property interest; (2) a deprivation of that protected interest; and (3) state action effecting the deprivation of the protected interest.” *Jones v. Clark*, 607 F. Supp. 251, 254 (E.D. Pa. 1984) (*citing Parratt v. Taylor*, 451 U.S. 527, 536-37 (1981)). Here, Mattis cannot identify a protected life or liberty interest. *See, e.g., Griffin v. Vaughn*, 112 F.3d 703, 708 (3d Cir. 1997) (fifteen months in RHU at SCI Graterford does not implicate liberty interest); *Debrose v. Chesney*, Civ. A. No. 95-6813, 1996 WL 4093, at \*3 (E.D. Pa. Jan. 2, 1996) (no liberty interest in remaining in one place of incarceration as opposed to another). The Court reads Plaintiff’s Amended Complaint as relying solely on his alleged property

interest in the musical equipment.

Yet even assuming that Mattis has a protected property interest in the musical equipment, it is apparent from his Amended Complaint that he was provided with post-deprivation remedies sufficient to satisfy due process requirements. *See Zinermon v. Burch*, 494 U.S. 113, 126 (1990) (Actionable due process claim “is not complete when the deprivation occurs; it not complete unless and until the State fails to provide due process.”). It is well-established that prison grievance procedures comport with due process by providing meaningful post-deprivation remedies for prisoners deprived of personal property. *See Hudson v. Palmer*, 468 U.S. 517, 533 (1984). Moreover, courts in this Circuit have consistently held that the Pennsylvania Department of Corrections’ grievance procedure, which was in effect at Graterford and Somerset and was invoked by Plaintiff when he filed numerous grievances and appeals, provides an adequate post-deprivation remedy. *See, e.g., Tillman v. Lebanon County Correctional Facility*, 221 F.3d 410, 421-22 (3d Cir. 2000); *Whitehead v. Beard*, Civ. A. No. 04-1853, 2006 WL 891053, at \*8 (E.D. Pa. Mar. 30, 2006); *Robinson v. Ridge*, 996 F. Supp. 447, 450 n.4 (E.D. Pa. 1997); *Austin v. Lehman*, 893 F. Supp. 448, 454 (E.D. Pa. 1995). Thus, the grievance process utilized by Defendants following the confiscation of Mattis’ musical equipment satisfied the requirements of due process.

Accordingly, Plaintiff fails to state a procedural due process claim, and Defendants’ motion to dismiss this claim is granted.

#### **IV. CONCLUSION**

For the foregoing reasons, the Court grants Defendants’ motion to dismiss Plaintiff’s

Amended Complaint.<sup>2</sup> An appropriate Order follows.

---

<sup>2</sup> Because none of the named Defendants in this action took any actions to deny or interfere with Plaintiff's right of access to the courts under the First Amendment, this claim is dismissed. As all of Plaintiff's federal claims are dismissed, the Court declines to exercise supplemental jurisdiction over the state law claims. *See* 28 U.S.C. § 1367(c)(3) (2007). Accordingly, Plaintiff's Amended Complaint is dismissed in its entirety.

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

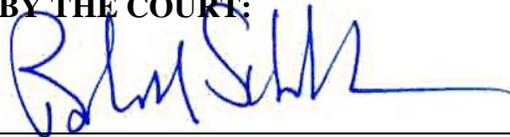
<b>TREVOR MATTIS,</b>	:	
<b>Plaintiff,</b>	:	<b>CIVIL ACTION</b>
	:	
v.	:	
	:	
<b>DOHMAN, et al,</b>	:	<b>No. 05-465</b>
<b>Defendants.</b>	:	

**ORDER**

AND NOW, this 4<sup>th</sup> day of May 2007, upon consideration of Defendants' Motion to Dismiss Plaintiff's Amended Complaint, Plaintiff's response thereto, and for the foregoing reasons, it is hereby **ORDERED** that:

1. Defendants' motion (Document No. 36) is **GRANTED**.
2. This action is **DISMISSED with prejudice**.

**BY THE COURT:**



\_\_\_\_\_  
**Berle M. Schiller, J.**