

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

HARRY RIDDICK, JR.)	CIVIL ACTION
)	NO.96-3975
Plaintiff)	
)	
vs.)	
)	
DAVID LEH, ROBERT PALMER,)	
JAMES STEPHENS, EDWARD SWEENEY,)	
AND HELMUT FRIED)	
)	
Defendants.)	

TROUTMAN, S.J.

M E M O R A N D U M

Presently before the Court are two motions to dismiss. The Plaintiff, a prisoner, is proceeding pro se. He has not filed a response to either Motion to Dismiss. Accordingly, we will keep in mind the liberal construction accorded to the pleadings of pro se claimants, and shall conduct an independent examination of the Complaint in order to assess whether it can survive the two respective Motions to Dismiss. For reasons discussed more fully below, we determine that it cannot.

Factual Background

The following are the facts as alleged by the Plaintiff. The Plaintiff, Harry Riddick, Jr. (hereinafter, "the Plaintiff") asserts that he surrendered to law enforcement authorities at the Allentown Police Department on August 14, 1994. The Allentown Police Department told the Plaintiff that

while they did not want him, "the Feds do". (See, Plaintiff's Second Amended Complaint).

The Plaintiff was subsequently arrested by defendants David Leh and Robert Palmer who are both Allentown police officers. Thereafter, the Plaintiff was transported to the Lehigh County Prison by Defendant James Stephens where he was taken into custody. Upon his arrival at the prison, Plaintiff was signed into custody by Defendant Helmut Fried. Defendant Ed Sweeney at all relevant times was the warden of the Prison.

Plaintiff was placed in a Unit, called "the Ghost Pod", which allegedly had been closed for repairs. He stayed in this unit for four days during which time plaintiff alleges he was visited by "agents" who questioned him and others housed in the same unit regarding bail. Plaintiff maintains that at no time did he receive his Miranda warnings.

On August 15, 1994, the Plaintiff was arraigned at the prison before the Honorable Arnold Rapoport, United States Magistrate Judge. Plaintiff alleges that the charges upon which the warrant was issued were never brought forth, and that he was arraigned on charges not listed in the arrest warrant.

In Plaintiff's Second Amended Complaint, which was filed October 25, 1996, the Plaintiff argues that his due process rights were violated by the named Defendants. Consequently, he seeks both compensatory and punitive damages under 42 U.S.C. § 1983.

Legal Standard

As conceded by Defendants, in disposing of a motion to dismiss under Fed. R. Civ. P. 12(b)(6), the court must accept the facts alleged in the Complaint as true together with all reasonable inferences that can be drawn therefrom and construe them in a light most favorable to the Plaintiff. Markowitz v. Northeast Lnd Co., 906 F.2d 100, 103 (3d Cir. 1990); Hough/Loew Associates, Inc. v. CLZ Realty Co., 760 F. Supp. 1141 (E.D. Pa. 1991). In order to prevail on a motion to dismiss, a defendant must establish that the plaintiffs can prove no set of facts which would entitle them to relief. Jones v. Arvor, Inc., 820 F. Supp. 205, 206 (E.D. Pa. 1993) (citing Hishon v. King & Spalding, 467 U.S. 69, 73, 104 S. Ct. 2229, 2232, 81 L.Ed.2d 59 (1984)).

DISCUSSION

Defendants Fried and Sweeney

Plaintiff has brought this action alleging a violation of his civil rights under color of state law in violation of 42 U.S.C. § 1983. Notably, 42 U.S.C. § 1983 provides a Federal remedy for deprivations of Constitutional rights by authorizing suits against public officials and government entities. See Monroe v. Pape, 365 U.S. 167, 81 S.Ct. 473, 5 L.Ed.2d 492 (1961). In order to recover under § 1983, a civil rights plaintiff must prove two elements: (1) deprivation of a Federally protected right "secured by the Constitution and the laws of the United

States," and (2) state action under color of law. Lugar v. Edmondson Oil Co., 457 U.S. 922, 930, 102 S.Ct. 2744, 2750, 73 L.Ed.2d 482 (1982) (quoting Flagg Brothers v. Brooks, 436 U.S. 149, 155-56, 98 S.Ct. 1729, 1732-34, 56 L.Ed.2d 185 (1978)).

We turn now to allegations of the Complaint in order to determine whether the Plaintiff has established a valid claim under § 1983. Turning first to Defendant Fried, we glean from the allegations of the Complaint that his only role was as the officer who signed for custody of Plaintiff, on the basis of a facially valid remander, on August 14, 1994 at Lehigh County Prison. The Court fails to see the constitutional violation emanating from this conduct; it plainly does not amount to a deprivation of any known right or privilege. As stated above, it is axiomatic that in order to state a valid 42 U.S.C. § 1983 claim, a plaintiff "must demonstrate that the conduct complained of was committed by a person acting under state law and '**that the conduct deprived him of rights, privileges or immunities secured by the Constitution.**'" Piecknick v. Commonwealth of Pennsylvania, 36 F.3d 1250, 1255-56 (3d Cir. 1994) quoting Carter v. City of Philadelphia, 989 F.2d 117, 119 (3d Cir. 1993) (emphasis added). Here, the Plaintiff fails to explain how Defendant Fried, in simply signing for custody of the Plaintiff, denied him any right or privilege protected under the Constitution. Thus, it is evident that the Plaintiff cannot state a valid section 1983 claim against defendant Fried. Accordingly, Defendant Fried's Motion to Dismiss will be granted.

Next, we look to the allegation directed toward the Defendant Warden Sweeney. We note first that he (Defendant Sweeney) has accurately stated that the doctrine of respondeat superior is not a basis for liability under 42 U.S.C. § 1983.¹ See, Blanche Road Corp. v. Bensalem Twp., 57 F.3d 253 (3d Cir. 1995) (Doctrine of Respondeat Superior may not be employed to impose section 1983 liability on supervisor for conduct of subordinate which violates citizen's constitutional rights); Hampton v. Holmesburg Prison Officials, 546 F.2d 1077 (1976) ("In section 1983 suits liability may not be imposed on the traditional standards of respondeat superior").

Thus, assuming for a moment that there was some sort of violation of plaintiff's constitutional rights, the plaintiff fails to allege any actual knowledge or participation on Defendant Sweeney's part. Indeed, nothing in the Complaint suggests that Sweeney may have himself participated in any sort of deprivation of a constitutional right. Rather, the Plaintiff suggests that the Warden is culpable by way of inferred knowledge, ... "[b]y inference it becomes apparent the Warden had to have known and approved of the special placement of Riddick and others in his case, which, again by inference, makes it apparent that the Warden was aware of the irregularity of the

1. Defendants Sweeney and Fried argue as a preliminary matter that the Plaintiff is barred from bringing this action against because of the applicable statute of limitations. We find that in light of the Plaintiff's pro se status, and the fact that we have determined there is a substantive basis for dismissal, it is unnecessary to address this argument.

Riddick arrest, and the illegality of his detainment prior to any arraignment" (See Plaintiff's Complaint).

We find that Plaintiff's contention lacks merit. Plaintiff's attempt to base a § 1983 claim on alleged implied knowledge is futile. See, Youse v. Carlucci, 867 F. Supp. 317 (E.D. Pa. 1994) (There can be no vicarious liability in federal civil rights action under respondeat superior theory, and allegations of participation or actual knowledge and acquiescence must be made with appropriate particularity); Brown v. Thompson, 868 F. Supp. 326 (S.D. Ga. 1994) (Prison warden was not liable for allegedly poor medical treatment inmate received, where there was no evidence that warden condoned or directly participated in allegedly unconstitutional treatment).

More importantly, however, even if the Plaintiff had properly alleged that Defendant Sweeney had direct participation or actual knowledge, the question which automatically ensues from this is: direct participation and/or actual knowledge in what? In looking at the Complaint it appears that the answer to this question is the knowledge that the Plaintiff was being kept with some others separate from the rest of the prison population.

Inasmuch as Sweeney could have known of these procedures it remains unclear to us how the fact that the Plaintiff (with some others) was initially placed in an Unit not normally reserved for prisoners amounts to a deprivation of a constitutional right. As Defendants aptly point out, "[t]here is no right to be clothed in prison attire instead of street clothes

when incarcerated, and there is no right to be processed upon admission in one housing unit versus another. Neither of these allegations state any Eighth amendment violations regarding conditions of confinement, or a violation of any other constitutional right." (See, Motion of Defendants Sweeney and Fried to Dismiss, pg. 5). We find this statement to be true.

Next, we briefly address the allegation that the Plaintiff never received his Miranda rights. Assuming this is true, it is unclear how the Warden of the Prison could be implicated in this alleged deprivation. Quite simply, it is not the duty of the prison to administer the Miranda rights in the first place and, consequently, liability for a violation of the Miranda rights cannot be shifted onto the warden of the prison. Moreover, as explained more fully below, an action for civil damages is not the appropriate remedy for the deprivation of an individual's Miranda rights. As such, Defendant Sweeney's motion to dismiss will likewise be granted.

Defendants Leh, Palmer and Stephens

Defendants Leh and Palmer were the two state police officers who arrested Plaintiff after he turned him into the Allentown Police Department. Leh and Palmer were also sworn to special duty for the Drug Enforcement Agency (DEA) during the period at issue. Defendant Stephens was the police officer who drove Plaintiff to the Prison.

In Defendants Leh, Palmer and Stephens' Motion to Dismiss, they contend, as an initial matter, that Plaintiff's § 1983 claim fails to meet the specificity in pleading standards imposed by the Court of Appeals for the Third Circuit for civil rights actions. We note, however, that all of the cases cited by the Defendants in support of this proposition predate Leatherman v. Tarrant County, 507 U.S. --, 113 S.Ct. 1160, 122 L.Ed.2d 517 (1993), in which the Supreme Court held that the courts are not permitted to ordain more stringent pleading requirements than the notice pleading standards set forth in Fed. R. Civ. P. 8(a). Moreover, Defendants have made no reference to Leatherman and no effort to convince the Court that a heightened pleading standard should be imposed for § 1983 claims notwithstanding the holding in Leatherman. Thus, we will not further consider the Defendants' argument regarding the specificity, or lack thereof, of the Complaint as a basis for dismissing Plaintiff's § 1983 claim.

Next, we turn back to the Complaint in order to address the Plaintiff's chief charge, that he did not receive his Miranda rights prior to his incarceration. We note, first, that under Rhode Island v. Innis, 446 U.S. 291, 100 S.Ct. 1682, 64 L.Ed.2d 297 (1980), the Supreme Court of the United States held that the special procedural safeguards outlined in Miranda are required not when a suspect is simply taken into custody but rather, when a suspect in custody is subject to interrogation. Notably, in the instant case, the Plaintiff does not allege that Defendants

Leh, Palmer, and Stephens ever questioned him while in custody. Rather, the Complaint states only that Defendants Leh and Palmer were the ones who arrested him, while Defendant Stephens was the one who transported him to the prison. Based on this factual scenario, the Plaintiff cannot successfully aver that his Miranda rights were violated when Defendants Leh, Palmer and Stephens arrested and transferred him to the prison.

The Plaintiff does, however, make vague accusations that "agents" came into the block where he (Plaintiff) was residing and proceeded to question him without any Miranda warnings. Oddly, Plaintiff does not identify the agents. More significant for our purposes, nowhere does he identify these "agents" as either Leh, Palmer or Stephens. Hence, Plaintiff cannot make a valid claim against Leh, Palmer or Stephens for denial of his Miranda rights.

However, even assuming for an instant that the Plaintiff had been denied his Miranda rights by Defendants Leh, Palmer and Stephens, it does not ensue that he would be able to bring a viable § 1983 claim. To the contrary, the remedy for a violation of a suspect's Miranda rights is the exclusion from evidence of any compelled self-incrimination, not a civil rights action under 42 U.S.C. § 1983. Warren v. City of Lincoln, Nebraska, 864 F.2d 1436, 1442 (8th Cir.), cert. denied, 490 U.S. 1091, 109 S.Ct. 2431, 104 L.Ed.2d 988 (1989) Cf. Heck v. Humphrey, 512 U.S. 485, 114 S.Ct. at 2372 (The Supreme Court held that to recover damages for an allegedly unconstitutional

conviction or confinement a § 1983 plaintiff must prove that the conviction or confinement has been reversed on direct appeal or called into question by a federal court's habeas corpus).

Accordingly, presuming Plaintiff's Miranda rights were denied by Defendants Leh, Palmer and Stephens, the present action for civil damages under §1983 is not the appropriate vehicle for the Plaintiff to vindicate such rights, at least at this point.

Thus, in taking as true the allegations in the Complaint, we cannot see how the Plaintiff can state a claim upon which relief can be granted. Therefore, we will enter an Order granting Defendants Palmer, Leh and Stephens' Motion to Dismiss.