

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

JULIUS CASTRO,
Plaintiff,

v.

JOSEPH W. CHESNEY, Superintendent
S.C.I. Frackville; ROBERT SHANNON,
Deputy Superintendent, S.C.I.
Frackville; and LT. JOHN DOE;
Defendants.

CIVIL ACTION

NO. 97-4983

MEMORANDUM

Broderick, J.

March 31, 1998

Plaintiff Julius Castro, an inmate at the State Correctional Institution in Frackville, Pennsylvania, has brought this pro se civil rights action pursuant to 42 U.S.C. § 1983 alleging violations of the Eighth and Fourteenth Amendments.

Specifically, the plaintiff alleges that for "several days" he was placed in a cell without a mattress, linens, or blankets and was not provided with a toothbrush, toothpaste, toilet paper, or soap and running water. The plaintiff also alleges that he is being denied access to the courts because the prison does not provide Spanish-speaking paralegals, and as a Spanish-speaking Latino, he is unable to read, write, or draft legal papers without assistance. Defendants Joseph W. Chesney and Robert Shannon, the Superintendent and Deputy Superintendent of S.C.I. Frackville, have filed a motion to dismiss the plaintiff's complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil

Procedure. For the reasons set forth below, the defendants' motion to dismiss will be granted in part and denied in part.

I. STANDARD OF REVIEW

When reviewing a Rule 12(b)(6) motion, the Court must accept as true all factual allegations contained in the complaint as well as all reasonable inferences that may be drawn from those allegations and view them in the light most favorable to the non-moving party. H.J. Inc. v. Northwestern Bell Tel. Co., 492 U.S. 229, 249-50 (1989). The Court should not dismiss the complaint "unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claims which would entitle him to relief." Conley v. Gibson, 355 U.S. 41, 45-46 (1957). Moreover, pro se complaints must be liberally construed. Haines v. Kerner, 404 U.S. 519, 520 (1972).

II. DISCUSSION

The plaintiff commenced this action on August 4, 1997. Leave to proceed in forma pauperis was granted on September 10, 1997, and the plaintiff has been paying partial filing fees in accordance with the Prison Litigation Reform Act of 1995, Pub. L. No. 104-134, § 804, 110 Stat. 1321 (enacted April 26, 1996). In addition to naming Superintendent Chesney and Deputy Superintendent Shannon as defendants, the plaintiff has also named a "Lt. John Doe." The plaintiff alleges that Lt. John Doe was the correctional officer who admitted him to the prison on or

about March 17, 1997 and placed him in a "dry cell" without a mattress, sheets, blankets, toilet tissue, toothbrush, toothpaste, and soap or running water. Defendants Chesney and Shannon filed a motion to dismiss the plaintiff's complaint on November 17, 1997, contending that the plaintiff's allegations against them are barred by the Eleventh Amendment and, alternatively, fail to state a claim upon which relief can be granted. The plaintiff has not filed a response to the defendants' motion.

A. The Eleventh Amendment

It is well-established that, absent consent by the state, the Eleventh Amendment prohibits suits in federal court against a state or its agencies. Alabama v. Pugh, 438 U.S. 781, 782 (1978). Pennsylvania has expressly withheld such consent. 42 Pa.C.S.A. § 8521(b) (Purdon's 1982). The Eleventh Amendment also bars actions under 42 U.S.C. § 1983 for money damages against state officials acting in their official capacities. Kentucky v. Graham, 473 U.S. 159, 169 (1985). Suits against state officials for injunctive relief, however, are not prohibited, nor are suits against state officials for actions in their individual capacities. Hafer v. Melo, 502 U.S. 21 (1991); Will v. Michigan Dept. of State Police, 491 U.S. 58, 71 n.10 (1989); Ex Parte Young, 209 U.S. 123 (1908).

In the instant case, the plaintiff has alleged claims against Superintendent Chesney and Deputy Superintendent Shannon

in both their official and individual capacities, and the plaintiff seeks both monetary and equitable relief. Thus, to the extent that the complaint seeks monetary damages from Chesney and Shannon in their official capacities, it is barred by the Eleventh Amendment. Accordingly, the defendants' motion to dismiss will be granted in part. However, to the extent that the plaintiff seeks equitable relief from the defendants in their official capacities and seeks both monetary and equitable relief from the defendants in their individual capacities, the defendants' motion to dismiss will be denied.

B. The Eighth Amendment

The Eighth Amendment can be violated when prison inmates are deprived of "the minimal civilized measures of life's necessities." Rhodes v. Chapman, 452 U.S. 337, 347 (1981). Although the personal hygiene items listed by the plaintiff are considered minimal necessities, the Eighth Amendment is only violated when the deprivation of these items is sufficiently serious or lengthy and the prison official(s) have acted with deliberate indifference. Wilson v. Seiter, 501 U.S. 294, 298 & 303 (1991); McCoy v. Chesney, 1997 WL 381613, *3-4, No. 95-2552 (E.D. Pa. July 2, 1997) (citing Young v. Quinlan, 960 F.2d 351 (3d Cir. 1992) and cases from other circuits)).

Defendants Chesney and Shannon contend that the plaintiff's Eighth Amendment claims should be dismissed because the plaintiff has failed to allege that they were directly involved in the

alleged constitutional violations and also because the plaintiff has failed to allege that they were deliberately indifferent to his constitutional rights. It is true that individual defendants ordinarily must be personally involved in a constitutional violation to be held liable under § 1983, since liability cannot be predicated solely on the basis of respondeat superior. Rode v. Dellarciprete, 845 F.2d 1195, 1207 (3d Cir. 1988). However, the plaintiff has claimed that defendants Chesney and Shannon are liable for failing to train and/or supervise prison employees. Supervisory individuals may be held liable under § 1983 for failure to train or supervise if their actions constitute deliberate indifference to the plaintiff's rights and are the proximate cause of the plaintiff's injuries. City of Canton v. Harris, 489 U.S. 378 (1989); Sample v. Diecks, 885 F.2d 1099 (3d Cir. 1989). Furthermore, the Court finds that the plaintiff has sufficiently pled the elements of an Eighth Amendment claim. In ruling on the defendants' motion to dismiss, the Court must construe the plaintiff's pro se complaint liberally and must accept all of his factual allegations as true and view all reasonable inferences in a light most favorable to the plaintiff. Given this standard, the Court cannot conclude that the plaintiff has failed to state a claim upon which relief can be granted in connection with his Eighth Amendment claim. Accordingly, the defendants' motion to dismiss the plaintiff's Eighth Amendment claims will be denied, except for the claim which the Court will dismiss pursuant to the Eleventh Amendment, supra.

C. The Fourteenth Amendment

The United States Supreme Court has held that prison inmates have a fundamental constitutional right to access to the courts, and that prison authorities must provide either library materials, paralegals, or other suitable alternatives to assist prisoners with the preparation and filing of legal papers.

Bounds v. Smith, 430 U.S. 817, 828 (1977). Although it is not clear in the instant case whether the plaintiff is claiming that the defendants have failed to provide any legal assistance at all, or whether they have failed to provide Spanish-speaking paralegals, this claim must be dismissed. The plaintiff has not alleged that any shortcomings in S.C.I. Frackville's legal assistance program actually hindered his efforts to pursue a legal claim.

In Lewis v. Casey, 116 S. Ct. 2174, 2180 (1996), the Supreme Court clarified its Bounds decision, ruling that an inmate alleging denial of access to the courts must demonstrate "actual injury." The Court wrote:

Because Bounds did not create an abstract, free-standing right to a law library or legal assistance, an inmate cannot establish relevant actual injury simply by establishing that his prison's law library or legal assistance program is sub-par in some theoretical sense. That would be the precise analogue of the healthy inmate claiming constitutional violation because of the inadequacy of the prison infirmary. Insofar as the right vindicated by Bounds is concerned, "meaningful access to the courts is the touchstone," Bounds, 430 U.S. at 823, 97 S. Ct. at 1495 (internal quotation marks omitted), and the inmate therefore must go one step further and demonstrate that the alleged shortcomings in the library or legal assistance program hindered his efforts to pursue a legal claim. He might

show, for example, that a complaint he prepared was dismissed for failure to satisfy some technical requirement which, because of deficiencies in the prison's legal assistance facilities, he could not have known. Or that he had suffered arguably actionable harm that he wished to bring before the courts, but was so stymied by inadequacies of the law library that he was unable even to file a complaint.

Id.

The plaintiff has not alleged how the defendants' failure to provide him with a Spanish-speaking paralegal or with any legal assistance has hindered him from preparing and filing specific legal papers. Indeed, the plaintiff has articulately prepared and filed the instant civil rights lawsuit. Accordingly, the plaintiff's claim that the defendants have denied his Fourteenth Amendment right of access to the courts will be dismissed.

III. CONCLUSION

For the reasons set forth above, the Court will grant in part and deny in part the defendants' motion to dismiss the plaintiff's complaint. The plaintiff's Eight Amendment claim against defendants Chesney and Shannon in their official capacities for monetary damages and the plaintiff's Fourteenth Amendment claim for denial of access to the courts will be dismissed. The plaintiff's Eighth Amendment claim against Chesney, Shannon, and Lt. John Doe in their official capacities for equitable relief and in their individual capacities for both monetary and equitable relief will be allowed to proceed.

An appropriate Order follows.

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ORDER

AND NOW, this 31st day of March, 1998; for the reasons set forth in this Court's Memorandum of the this day;

IT IS ORDERED: The motion of defendants Joseph Chesney and Robert Shannon to dismiss the plaintiff's complaint pursuant to Rule 12(b)(6) is GRANTED IN PART and DENIED IN PART as follows:

1. The plaintiff's Eighth Amendment claim against Chesney and Shannon in their official capacities for monetary damages is DISMISSED.

2. The plaintiff's Fourteenth Amendment claim against all defendants for denial of access to the courts is DISMISSED.

3. The plaintiff's Eighth Amendment claim against Chesney, Shannon, and Lt. John Doe in their official capacities for equitable relief and in their individual capacities for both monetary and equitable relief shall PROCEED.

RAYMOND J. BRODERICK, J.