

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

KEITH M. BENNETT,	:	
	:	CIVIL ACTION
Plaintiff,	:	
	:	
v.	:	NO. 97-3555
	:	
JUDGE EUGENE E. MAIER, et al.	:	
	:	
Defendants.	:	

MEMORANDUM

KELLY, R.F.

JULY 7, 1998

Plaintiff, Keith M. Bennett, an inmate incarcerated at SCI Cresson, has filed a pro se complaint alleging violations of 42 U.S.C. § 1983 against various Defendants. Four of the Defendants, two state court judges and two attorneys, were dismissed by Memorandum and Order dated November 20, 1997. The remaining Defendants have now moved to dismiss Plaintiff's complaint pursuant to Rule 12 of the Federal Rules of Civil Procedure.

I. INTRODUCTION.

Plaintiff's pro se complaint is, as noted in my earlier opinion, difficult to discern. Pro se pleadings, however, "are held to less stringent standards than those drafted by attorneys." Bieros v. Nicola, 839 F. Supp. 332, 334 (E.D. Pa. 1993). In his Response to the Defendants' Motion to Dismiss Plaintiff greatly clarifies the allegations contained in his

Complaint as it pertains to the remaining Defendants. Portions of Plaintiff's Complaint and Response are unintelligible and will be disregarded, however, the remainder of these documents state a viable claim under § 1983, therefore, the Defendants' Motion to Dismiss will be granted in part and denied in part.

II. FACTS.

The Defendants remaining in this action are correctional officials employed at SCI Albion who, Plaintiff alleges, violated his constitutional rights while he was incarcerated in that facility. The Defendants are Edward T. Brennan, Superintendent of SCI Albion ("Superintendent Brennan"), Deborah Gregg ("Gregg") and Martha Eichenlaub ("Eichenlaub"), psychologists, and Carolyn Dantzler ("Dantzler"), a counselor.

Plaintiff claims that, without his consent, Gregg told Dantzler that he had Acquired Immune Deficiency Syndrome ("AIDS").¹ Dantzler then told James Ruffin ("Ruffin"), Plaintiff's cellmate, that Plaintiff had AIDS. Plaintiff states that Ruffin teased him about his "medical condition," that he is "sensitive" about his "medical condition," that Gregg knew of this sensitivity through her position as psychologist, and that

¹ The Complaint does not disclose the precise nature of Plaintiff's diagnosis, however, the Defendants address Plaintiff's medical condition as "AIDS" or "HIV-positive," therefore, the Defendants must have known of Plaintiff's illness. Plaintiff should amend his complaint to clarify the nature of his "medical condition." See infra note 2.

these unauthorized disclosures harmed him emotionally.

Plaintiff also alleges that Dantzler discriminated against him by refusing to get him a job and by refusing to place him in drug and alcohol programs. Plaintiff claims this refusal was based on his "medical condition."

Plaintiff's claims against Eichenlaub are less coherent. Plaintiff's complaint and response indicate that Eichenlaub was part of a "conspiracy to murder" Plaintiff. Additionally, Plaintiff states a claim for "obstruction of justice" against Eichenlaub.

As to Superintendent Brennan, Plaintiff's complaint does not contain any specific factual allegations that implicate his personal involvement in the challenged conduct. In his Response, Plaintiff states that because he complained to officials within the prison, Superintendent Brennan "should have known" of the situation and can therefore be held liable under section 1983.

II. STANDARD.

Under Rule 12(b)(6), the Court must determine whether the allegations contained in the complaint, construed in the light most favorable to Plaintiff, show a set of circumstances which, if true, would entitle Plaintiff to the relief he requests. Gibbs v. Roman, 116 F.3d 83, 86 (3d Cir. 1997)(citing Nami v. Fauver, 82 F.3d 63, 65 (3d Cir. 1996)). A complaint will be dismissed only if Plaintiff could not prove any set of facts

which would entitle him to relief. Nami, 82 F.3d at 65 (citing Conley v. Gibson, 355 U.S. 41, 45-46 (1957)).

III. DISCUSSION.

Section 1983 requires Plaintiff to show (1) that a person acting under color of state law (2) deprived him of a right, privilege or immunity secured by the Constitution or federal law. 42 U.S.C. § 1983; Parratt v. Taylor, 451 U.S. 527, 535 (1981), overruled on other grounds by Daniels v. Williams, 474 U.S. 327 (1986); Carter v. City of Philadelphia, 989 F.2d 117, 119 (3d Cir. 1993). "Prison official acting in their official capacity are acting under color of state law." Unterberg v. Correctional Medical Systems, Inc., 799 F. Supp. 490, 494 (E.D. Pa. 1992). It is undisputed that each Defendant acted under color of state law by reason of their employment.

A. The Right to Privacy.

The issue in dispute is whether Plaintiff's complaint sets forth sufficient facts to support his contention that his right to privacy has been violated. Two such violations are alleged to have occurred. First, Plaintiff alleges that Gregg violated his constitutional right to privacy by disclosing his medical condition to Dantzler, his counselor, without his permission. Then, Dantzler violated his constitutional right to privacy by disclosing his medical condition to Ruffin, an inmate, without his permission. Doe v. Southeastern Penn. Transp. Auth.

("SEPTA"), 72 F.3d 1133, 1139 (3d Cir. 1995)(holding that each person who learned of Plaintiff's condition constituted a separate disclosure for purposes of privacy violation), cert. denied, ___ U.S. ___, 117 S. Ct. 51 (1996).

Not all information is protected by the Constitution. The right to privacy extends only to information that is "fundamental" or "implicit in the concept of ordered liberty." Doe v. SEPTA, 72 F.3d at 1137. The information contained in an individual's medical record is protected from unauthorized disclosure by the right of privacy. Doe v. SEPTA, 72 F.3d at 1137(citing Whalen v. Roe, 429 U.S. 589, 599-600 (1977); Hetzel v. Swartz, 909 F. Supp. 261, 264 (M.D. Pa. 1995)).

An individual's right to be free from the public disclosure of private information is clearly established but not absolute. Doe v. SEPTA, 72 F.3d at 1138 (citing Whalen, 429 U.S. at 602 (1977)). That right is even less secure when the individual in question is an inmate. Hudson v. Palmer, 468 U.S. 517, 526 (1984). The disclosure of Plaintiff's medical condition violated his right to privacy if it was not "reasonably related to a legitimate penological interest." O'Lone v. Estate of Shabazz, 482 U.S. 342, 349 (1987)(quoting Turner v. Safley, 482 U.S. 78, 89 (1987)).

Plaintiff claims that no legitimate penological interest was served by the disclosure of his medical condition.

Defendants contend that a prisoner's medical condition must be disclosed to promote the care, custody and control of the inmate, especially when an inmate is diagnosed with a contagious disease. Unfortunately, no authority for this statement is provided. The Defendants argument may well prove correct, however, without any basis for this conclusion, dismissal of Plaintiff's action at this stage is improper. Therefore, Plaintiff's claims against Defendants Dantzler and Gregg based on the right to privacy will not be dismissed.

Plaintiff's complaint does not contain any specific facts implicating Superintendent Brennan in the deprivation of Plaintiff's right to privacy. In order for Plaintiff to hold Superintendent Brennan liable under section 1983, he must show Brennan (1) was personally involved in the violation of his rights; (2) directed others to violate his rights; or (3) had active knowledge of and acquiesced in the violation of his rights. Robinson v. City of Pittsburgh, 120 F.3d 1286, 1293 (3d Cir. 1997). Plaintiff claims that Defendant Edward T. Brennan, the Superintendent of SCI Albion, "should have known" his rights were being violated because he complained to officials within the prison and because he is in charge of the facility. This is an insufficient basis for liability based on section 1983, therefore, Plaintiffs claims against Defendant Edward T. Brennan will be dismissed.

B. Discrimination.

Plaintiff claims that Dantzler discriminated against him because of his "medical condition" by failing to provide him with a job and by failing to place him in a drug and alcohol treatment program. The Complaint does not indicate the legal basis for Plaintiff's discrimination claim. Indeed, the only reference to discrimination in the entire complaint is "she discriminated against [sic] me as far as not getting me know [sic] jobs no drug and acohol [sic] groups." Pl.'s Compl. unnumbered page 9. Plaintiff's Response indicates that his discrimination claim is based on the Americans with Disabilities Act ("ADA").

Because Plaintiff's complaint makes no reference to the ADA, the Defendants treated the discrimination claim as based on the equal protection clause of the Fourteenth Amendment. Defendants were improperly notified that Plaintiff was proceeding under the ADA.² It would be improper to dismiss Plaintiff's discrimination claim before Defendants have had an opportunity to address it under the ADA, thus, the Defendant's Motion to Dismiss Plaintiff's discrimination claim is denied.

C. Conspiracy.

Plaintiff claims that a "chain conspiracy" existed between all the named Defendants, including those Defendants

² Plaintiff may amend his complaint once as of right before an answer is filed. FED. R. CIV. PRO. 15. See supra note 1.

previously dismissed and several persons not named at all in the complaint. Specifically, Plaintiff claims Defendant Eichenlaub conspired to murder him. Allegations of a conspiracy "must be supported by facts bearing out the existence of the conspiracy and indicating its broad objective and the role each defendant allegedly played in carrying out those objectives." Cap v. Hartman, No. 95-5871, 1996 WL 266701, at *3, (E.D. Pa. May 9, 1996)(citations omitted). Plaintiff's conspiracy allegations are factually unsupported and therefore must be dismissed.

D. Obstruction of Justice.

Plaintiff raises a claim for the "obstruction of justice" against Defendant Carolyn Dantzler. No civil cause of action for "obstruction of justice" exists under either federal law or the law of the state of Pennsylvania. See Amarioglio v. Nat'l R.R. Passenger Corp., 941 F. Supp. 173, 180 (D.D.C. 1996); Pilaqatti v. Cohen, 536 A.2d 1337, 1341 (Pa. Super. 1987), appeal denied, 548 A.2d 256 (Pa. 1988). Therefore, Plaintiff's claim for "obstruction of justice" must be dismissed.

For the foregoing reasons, the Defendants' Motion to Dismiss Plaintiff's Complaint is granted in part and denied in part. I will enter an appropriate Order.

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JUDGE EUGENE E. MAIER, et al.	:	
	:	
Defendants.	:	

ORDER

AND NOW this 7th day of July, 1998, upon consideration of the Defendants' Motion to Dismiss, and Plaintiff's Response thereto, it is hereby ORDERED that said Motion is GRANTED in part and DENIED in part.

1. The Defendant's Motion to Dismiss Plaintiff's privacy claim against Defendants Deborah Gregg and Carolyn Dantzler is DENIED;

2. The Defendant's Motion to Dismiss Plaintiff's privacy claim against Defendant Edward T. Brennan is GRANTED;

3. The Defendant's Motion to Dismiss Plaintiff's discrimination claim against Defendant Carolyn Dantzler is DENIED;

4. The Defendant's Motion to Dismiss Plaintiff's conspiracy claim against all Defendants is GRANTED;

5. The Defendant's Motion to Dismiss Plaintiff's

obstruction of justice claim against Defendant Carolyn Dantzler
is GRANTED; and

6. Plaintiff is directed to amend his complaint in
accordance with the foregoing Memorandum.

BY THE COURT:

Robert F. Kelly, J.