

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

OLIVER MALO : CIVIL ACTION
 :
 v. :
 :
 "FNU" SHAH, et al. : NO. 98-2948

MEMORANDUM AND ORDER

Fullam, Sr. J.

April , 1999

Plaintiff, who is proceeding pro se, is an inmate of the Federal Correctional Institution at Schuylkill. His complaint alleges that, on May 7, 1997, he sustained injuries in a fall in the prison barber shop. He has brought this action against various physicians and other medical personnel who have provided medical treatment since that time. All of the defendants are alleged to have provided medical services to the prison under various contractual arrangements.

Plaintiff has encountered extreme difficulty in achieving service of process upon any of the defendants: he does not know their addresses, has mailed "waiver of service" forms to them in care of the prison, but his mailings have been returned as undeliverable. Ordinarily, it would be appropriate for this Court now to order the warden of the institution (not a party to the action), to provide plaintiff with the addresses of the defendants (presumably known to the warden), so that service of process could be achieved by the United States Marshal.

In the unusual circumstances of this case, however, no useful purpose would be served by that procedure. Plaintiff's complaint makes it abundantly clear that he has, in fact, received extensive and ongoing medical treatment for his injuries. His complaint is that better or different treatment should have been provided. Based upon plaintiff's allegations, he cannot possibly sustain a federal cause of action, since he has not been denied treatment for his medical problems. If, as plaintiff apparently believes, the treating physicians did not provide adequate or correct treatment, that might give rise to an action against them for medical malpractice, but any such action would have to be brought in a state court (there is no diversity of citizenship).

Accordingly, this action will be dismissed for lack of subject-matter jurisdiction, without prejudice to plaintiff's right to proceed in state court.

An Order follows.

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ORDER

AND NOW, this day of April, 1999, IT IS ORDERED:

That this action is DISMISSED, WITHOUT PREJUDICE, to
plaintiff's right to pursue any state-law claims he may have, in
an appropriate state court.

John P. Fullam, Sr. J.