

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

EDWARD RANDALL : CIVIL ACTION
 :
v. :
 :
TENET UNIVERSITY HOSPITAL, :
A/K/A HAHNEMANN et al. : 99-CV-2708

MEMORANDUM & ORDER

J. M. KELLY, J.

NOVEMBER , 1999

Presently before the Court is a Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) on behalf of the Defendants, Tenet University Hospital a/k/a Hahnemann (“Hahnemann”) and Christine Hawkins (“Hawkins”). The Plaintiff, Edward Randall (“Randall”) alleges in his Complaint that the Defendants deprived him of his civil rights in violation of 42 U.S.C. § 1983. For the following reasons, the Defendants’ motion is granted.

I. BACKGROUND

According to the Complaint, on or about May 24, 1999, Randall had an appointment to see “Dr. Sinner” at a Hahnemann University Hospital clinic in Philadelphia. When he arrived for the appointment, however, Hawkins, an employee of Hahnemann University Hospital, harassed him by holding his files and medical records “as long as she c[ould]” and claiming he did not have an appointment that day. Randall claims this incident caused him to suffer high blood pressure, among other things. A broad reading of the Complaint indicates that Randall initiated suit against the Defendants pursuant to § 1983 claiming violations of his civil rights. He seeks compensatory damages for the violations and the mental stress caused by the incident.

II. STANDARD OF REVIEW

In considering whether to dismiss a complaint for failing to state a claim upon which relief can be granted, the court may consider those facts alleged in the complaint as well as matters of public record, orders, facts in the record and exhibits attached to the complaint. See Oshiver v. Levin, Fishbein, Sedran & Berman, 38 F.3d 1380, 1391 (3d Cir. 1994). The court must accept those facts as true. See Hishon v. King & Spalding, 467 U.S. 69, 73 (1983). Moreover, the complaint is viewed in the light most favorable to the plaintiff. See Tunnell v. Wiley, 514 F.2d 971, 975 n.6 (3d Cir. 1975). In addition to these expansive parameters, the threshold a plaintiff must meet to satisfy pleading requirements is exceedingly low; a court may dismiss a complaint only if the plaintiff can prove no set of facts that would entitle him to relief. See Conley v. Gibson, 355 U.S. 41, 45-46 (1957).

III. DISCUSSION

Section 1983 creates a cause of action against any person who, while acting under color of state law, deprives an individual of rights secured by the Constitution or laws of the United States. See 42 U.S.C. § 1983 (1994). To state a cause of action under § 1983, a plaintiff must allege first that he was deprived of a right, privilege or immunity guaranteed by the Constitution or federal law, and second, that the responsible individual was acting under the color of state law. See Groman v. Township of Manalapan, 47 F.3d 628, 633 (3d Cir. 1995); Bodor v. Horsham Clinic, Inc., No. CIV. A. 94-7210, 1995 WL 424906, at *2 (E.D. Pa. July 19, 1995). Taking the allegations of Randall's Complaint as true, the Court finds that he has nonetheless failed to state an actionable claim.

First, Randall fails to identify any federal or constitutional right that has been violated by

Hawkins' conduct. He merely alleges generally that Hawkins violated his civil rights. Second, there is no allegation that Hawkins acted under the color of state law. Randall alleges only that Hawkins is an employee of Hahnemann University Hospital, a private entity. The conduct of a private individual is deemed to be under color of state law when it is "fairly attributable" to the state. See Angelico v. Lehigh Valley Hosp., Inc., 184 F.3d 268, 277 (3d Cir. 1999). Such is the case where the defendant "exercise[d] . . . some right or privilege created by the State or by a rule of conduct imposed by the State or by a person for whom the State is responsible," or where the defendant may fairly be said to be a state actor. Id. (quoting Lugar v. Edmondson Oil Co., 457 U.S. 922, 937 (1982)). Individuals may be deemed state actors when they are state officials or when they act "together with or ha[ve] obtained significant aid from state officials." Id. Actions of private individuals acting without state aid do not give rise to a § 1983 claim. See Jordan v. Fox, Rothschild, O'Brien & Frankel, 20 F.3d 1250, 1265 (3d Cir. 1994). Because Randall has failed to allege how Hawkins' conduct is in any way attributable to the state, he has not stated a viable § 1983 claim. Defendant Hawkins' motion is therefore granted.

Defendant Hahnemann's motion is also granted. Because the only basis for liability alleged against Hahnemann is that it employed Hawkins, and because the claim against her is dismissed, Randall's claim against Hahnemann is similarly dismissed.

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ORDER

AND NOW, this day of November, 1999, in consideration of the Motion to Dismiss on behalf of the Defendants Christine Hawkins and Tenet University Hospital a/k/a Hahnemann (Doc. 8), it is ORDERED that the motion is GRANTED. All claims against Christine Hawkins and Hahnemann are DISMISSED.

BY THE COURT:

JAMES MCGIRR KELLY, J.