IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA

CIVIL DIVISION

Michael Farris

PLAINTIFF

VS

NO. 2048 of 2015 G.D.

Commonwealth Defendants

Superintendent Ronald COleman, et al

DEFENDANT

☑ PLAINTIFF PO Box 9999
Labelle PA 15450

☑ DEFENDANT
Debra Sue Rand

NOTICE OF ORDER

You are hereby notified that the following Order has been entered on you on January 22, 2016, in the above case

- ☑ Order
- ☐ Amended Order
- ☐ Case Management Order
- ☐ Opinion and Order
- ☐ Pretrial Adjudication
- ☐ Decree in Divorce

COPIES ATTACHED

NINA CAPUZZI FRANKHOUSER, PROTHONOTARY

BY: Deanna L Craft, Divorce Acct Clerk

MAILED: January 25, 2016

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA
CIVIL DIVISION

MICHAEL FARRIS,	:	
Plaintiff,	:	
vs.	:	
	:	
COMMONWEALTH DEFENDANTS SUPERINTENDENT RONALD COLEMAN, SECURITY CAPTAIN JOSEPH TREMPUS, CORRECTIONS OFFICERS COLLINS, C.O. 1 ALBRIGHT, C.O.1 WOOD, AND D.O.C. SECRETARY JOHN WETZEL	:	
:		
Defendant.	:	No. 2048 of 2015, G.D.

FILED
2016 JAN 22 PM 1 58
FAYETTE COUNTY
PROTHONOTARY

OPINION AND ORDER

LINDA R. CORDARO, J.

This matter comes before the Court by Defendants' Preliminary Objections to Plaintiff's Complaint. The Defendants' preliminary objections contend that this Court lacks jurisdiction to issue an injunction against Secretary John Wetzel and that the Plaintiff's complaint fails to state a claim for an intentional tort, negligence, assumpsit, or review of a prison misconduct. For the reasons set forth below, the Defendants' Preliminary Objections are hereby **SUSTAINED,** and the within Complaint is **DISMISSED**.

FACTS

On October 7, 2015, the Plaintiff, Michael Farris (hereinafter "Plaintiff") filed a complaint against the Defendants for negligence and assumpsit and trespass. The Plaintiff's Complaint alleges that Defendants Wood and Collins failed to comply with the Department of Corrections' inmate policies when the officers removed the Plaintiff's property from his cell and prohibited the return of said property. Plaintiff is seeking a Declaratory Judgment that the Commonwealth Defendants' acts and practices violated the Plaintiff's First and Fourteenth Amendment Rights under The Pennsylvania Constitution; a preliminary and permanent injunction requiring return of the Plaintiff's property, removal of any reference to the December 12, 2014 misconduct incident from the Plaintiff's file, and to prohibit retaliation by the Defendants against the Plaintiff; compensatory damages in the amount of two-thousand five-hundred dollars ($2,500.00) from each Defendant; and punitive damages in the amount of five-thousand dollars ($5000.00) from the Commonwealth Defendants Superintendent Ronald Coleman and Security Captain Joseph Trempus.

DISCUSSION

In Defendants' Preliminary Objections to Complaint, the Defendants aver that: 1) This Court lacks jurisdiction to issue an injunction against Secretary Wetzel; and 2) that the Plaintiff's Complaint does not state a claim for an intentional tort, negligence, assumpsit, or review of a prison misconduct.

This Court notes that Secretary Wetzel is a state-wide officer for purposes of the original jurisdiction of the Commonwealth Court and thus the power to enjoin him is reserved to that Court.

Staley v. Patton, 380 A.2d 515 (Pa. Cmwlth. 1977). As such, this Court is unable to issue an injunction against Secretary Wetzel, and will not entertain this issue.

Turning to the Plaintiff's second issue, it is well settled that preliminary objections in the nature of a demurrer admit all well-pleaded material facts and any inferences reasonably deduced therefrom, but not legal conclusions. *Danysh v. Department of Corrections*, 845 A.2d 1263 (2005). When ruling on a demurrer, this Court must take all facts pled and determine whether the moving party has stated a cause of action as a matter of law. *Skokut v. MCI*, 613 A.2d 55 (Pa. Cmwlth. 1992).

The Plaintiff alleges that the search and seizure of the Defendant's property and the subsequent investigation and issuance of a misconduct against the Plaintiff was an intentional violation of Department Policy. This Court notes that "when an employee of a Commonwealth agency was acting within the scope of his or her duties, the Commonwealth employee is protected by sovereign immunity from the imposition of liability for intentional tort claims." *LaFrankie v. Miklich,* 618 A.2d 1145 (Pa. Cmwlth. 1992). *See also Faust v. Department of Revenue,* 140 Pa.Commonwealth Ct. 389, 592 A.2d 835 (1991), *appeal denied,* 530 Pa. 647, 607 A.2d 257 (1992)(sovereign immunity protects a Commonwealth employee acting within the scope of his duties from liability for intentional acts which cause emotional distress). Further, the inherent characteristics of a prison society, including guards, teachers, visitors and officials, are such that guards must make prompt decisions as search problems confront them. *Gettleman v. Werner*, 377 F. Supp. 445, 452 (W.D. Pa. 1974). The governmental interest in preventing and detecting smuggling outweighs the individual interest in perfect justice. *Id.* Alleged intentional, willful and harassing action pursued by the prison guards is an inevitable incident of effective management and control of contraband smuggling. *Id.* As such, this Court finds that the Defendants' seizure of

the Plaintiff's property did not constitute actionable intentional tort or negligence. The literature seized by Officer Woods and Officer Collins were deemed to be UCC or sovereign citizen material and were appropriately confiscated per Department of Corrections Inmate Handbook Page 28, § (D)(1)(3) (2013). Likewise, Brian V. Coleman, Facility Manager at SCI: Fayette; Captain Joseph F. Trempus; and Rhonda A. House, Facility Grievance Coordinator, informed the Plaintiff that his property was contraband on several different occasions, and that said contraband would not be returned to him.

Turning to the Plaintiff's negligence claim, this Court finds that a *prima facie* case for negligence has not been established by the Plaintiff because the complaint alleges that the Defendants' conduct was willful and intentional, rather than negligent. The Plaintiff's negligence claim is therefore frivolous and will not be addressed by this Court.

Lastly, the Plaintiff seeks to have his misconduct reviewed, reversed, vacated, and/or expunged by this Court. However, this Court has no authority to view inmate misconducts and will not address this issue. *See Brown v. Pennsylvania Department of Corrections*, 913 A.2d 301 (Pa. Cmwlth. 2006).

Based on the aforementioned facts and case law, the Defendants' preliminary objections are hereby **SUSTAINED** and the Plaintiff's Complaint is **DISMISSED**.

Rand

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CIVIL DIVISION

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PROTHONOTARY

MICHAEL FARRIS, Plaintiff, vs. COMMONWEALTH DEFENDANTS SUPERINTENDENT RONALD COLEMAN, SECURITY CAPTAIN JOSEPH TREMPUS, CORRECTIONS OFFICERS COLLINS, C.O. 1 ALBRIGHT, C.O.1 WOOD, AND D.O.C. SECRETARY JOHN WETZEL Defendant.	:	No. 2048 of 2015, G.D.

ORDER

LINDA R. CORDARO, J.

AND NOW, this 22nd day of January, 2016, it is hereby **ORDERED** and **DECREED** that Defendants' preliminary objections are **SUSTAINED,** and the Plaintiff's complaint is hereby **DISMISSED.**

BY THE COURT:

Linda R. Cordaro
LINDA R. CORDARO, JUDGE

ATTEST:
Kimi Capuzzi Frankhouser

TRUE AND ATTESTED COPY
Prothonotary

RECEIVED
JAN 27 2016
Office of Chief Counsel
1920 Technology Parkway