

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

HOWARD LAWSON,  
Plaintiff

vs.

H-BLOCK UNIT MANAGER  
M. J. MAHLMEISTER; and  
SUPERINTENDENT CONNER BLAINE;  
Defendants

Civil Action No. 00-446  
Judge Donald J. Lee/  
Magistrate Judge Sensenich



**MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

**I. RECOMMENDATION**

It is recommended that this action be dismissed as frivolous pursuant to 28 U.S.C. §1915A(b).

**II. REPORT**

Plaintiff, is a prisoner at the State Correctional Institution at Greene and he brings this action pursuant to the Civil Rights Act of 1871, 42 U.S.C. § 1983, against the Superintendent of the Institution and the manager of the H-Block where he is housed. He seeks compensatory and punitive damages as well as declaratory and injunctive relief for the defendants having followed a security policy pursuant to which prisoners on the H-Block were required to turn on their cell lights at mealtime if they wished to receive a meal. Plaintiff alleges that his cell has a cell security light which sufficiently illuminates his cell twenty-four hours a day and that the security measure is unnecessary. He complains that he did not receive any meals for three days, from December 1, 1999 to December 3, 1999, because he refused to turn his cell light on. As a result

of his failure to receive his meals, he alleges he suffered massive weight loss, unbearable headaches and an undescrivable pain of body and mind. Plaintiff complains that Defendants used food as punishment. He alleges he filed a grievance and an appeal from the disposition of his grievance.

Plaintiff alleges that Defendants subjected him to cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments to the United States Constitution and also deprived him of rights under the Fifth and Fourteenth Amendments.

This Court must review Plaintiff's Complaint in accordance with the amendments promulgated in the Prison Litigation Reform Act ("PLRA"), Pub. L. No. 104-134, 110 Stat. 1321 (1996). Pertinent to the case at bar are the mandatory screening and dismissal provisions that apply to prisoner claims. In 28 U.S.C. § 1915A, Congress enacted a new statutory provision entitled "Screening" that requires federal courts to review prisoner complaints that seek redress from a governmental entity or an officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). If the complaint is "frivolous, malicious, or fails to state a claim upon which relief can be granted," or "seeks monetary relief from a defendant who is immune from such relief," the court must dismiss the complaint. 28 U.S.C. § 1915A(b).

In addition, Congress significantly amended Title 28 of the United States Code, section 1915, which establishes the criteria for allowing an action to proceed *in forma pauperis* ("IFP"), *i.e.*, without prepayment of costs. Section 1915(e) (as amended) requires the federal courts to review complaints filed by persons who are proceeding *in forma pauperis* and to dismiss, at any time, any action that is frivolous or malicious, fails to state a claim on which relief may be

granted, or seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B).

Plaintiff is considered a "prisoner" as that term is defined under the PLRA.<sup>1</sup> Defendants are officers or employees of a governmental entity. Moreover, Plaintiff has been granted leave to proceed *in forma pauperis* in this action.<sup>2</sup> Thus his allegations must be reviewed in accordance with the directives provided in 28 U.S.C. §§ 1915A & 1915(e). In reviewing complaints under 28 U.S.C. §§ 1915A & 1915(e), a federal court applies the same standard applied to motions to dismiss under Federal Rule of Civil Procedure 12(b)(6).<sup>3</sup> Dismissal is proper under Rule 12(b)(6) if, as a matter of law, it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations. *Hishon v. King & Spalding*, 467 U.S. 69, 73 (1984); *Conley v. Gibson*, 355 U.S. 41 (1957). Notwithstanding, a plaintiff must allege specific facts supporting his claims to withstand dismissal for failure to state a claim. *Brock v. St. Joseph's Hosp.*, 104 F.3d 358 (4th Cir. 1996); *Whitehead v. Becton*, 1996 WL 761937 (D.C. Cir. 1996).

The Civil Rights Act provides:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or

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1 . Sections 1915 and 1915A, as amended, define the term "prisoner" as "any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program." See 28 U.S.C. §§ 1915(h); 1915A(c).

2 . See Doc. # 2.

3 . See, e.g., *Bradley v. Puckett*, 157 F.3d 1022, 1025 (5th Cir. 1998); *Anyanwutaku v. Moore*, 151 F.3d 1053 (D.C. Cir. 1998); *Mitchell v. Farcass*, 112 F.3d 1483, 1484 (11th Cir. 1997); *McGore v. Wrigglesworth*, 114 F.3d 601, 604 (6th Cir. 1997); *Atkinson v. Bohn*, 91 F.3d 1127, 1128 (8th Cir. 1996); *Powell v. Hoover*, 956 F. Supp. 564, 568 (M.D. Pa. 1997) (applying Rule 12(b)(6) standard to claim dismissed under 28 U.S.C. § 1915(e)(2)(B)(ii)); *Tucker v. Angelone*, 954 F. Supp. 134 (E.D. Va.), *aff'd*, 116 F.3d 473 (Table) (4th Cir. 1997).

causes to be subject, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

42 U.S.C. § 1983.

In *O'Lone v. Estate of Shabazz*, 482 U.S. 369 (1987), the Court held that the Court of Appeals had improperly required that when a prison regulation was claimed to inhibit the right of prisoners to practice their religion, the prison officials had the burden to prove that there was no reasonable method by which the prisoners' religious rights could be accommodated without creating bona fide security problems. The Court noted that a regulation must have a logical connection to legitimate governmental interests invoked to justify it. A relevant consideration is whether alternative means of exercising the right remain open to prisoners. Finally, the impact that accommodation of the prisoners' asserted right would have on other inmates, prison personnel and on allocation of prison resources generally is relevant. The Court stated:

We take this opportunity to reaffirm our refusal, even where claims are made under the First Amendment, to "substitute our judgment on . . . difficult and sensitive matters of institutional administration," for the determinations of those charged with the formidable task of running a prison. Here the District Court decided that the regulations alleged to infringe constitutional rights were reasonably related to legitimate penological objectives.

*Id.* at 353 (citations omitted).

Plaintiff alleges that the policy of requiring prisoners to turn on their cell lights at mealtime if they wished to receive a meal was a security measure. He asserts that it was unnecessary because there was already a security light on in his cell which provided sufficient illumination. However this is the type of security matter over which the federal courts are

required to defer to the prison administrators. First, Plaintiff does not identify the source of any constitutional right not to be required to turn on the light in his cell if he wishes to receive a meal. Further, he does not identify any adverse impact that requirement had on him. His complaint is frivolous and should be dismissed pursuant to 28 U.S.C. § 1915A(b).

In accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.1.4(B) of the Local Rules for Magistrates, the parties are allowed ten (10) days from the date of service to file objections to this report and recommendation. Any party opposing the objections shall have seven (7) days from the date of service of objections to respond thereto. Failure to file timely objections may constitute a waiver of any appellate rights.



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ILA JEANNE SENSENICH  
U.S. Magistrate Judge

Dated: May 8, 2000

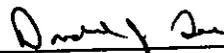
cc: The Honorable Donald J. Lee  
United States District Judge

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The report and recommendation of Magistrate Judge Sensenich, dated May 8, 2000, is adopted as the opinion of the court.

  
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Donald J. Lee  
United States District Judge

cc: Ila Jeanne Sensenich  
U.S. Magistrate Judge

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