

I. DISCUSSION

A. Municipal Liability

Municipal entities such as the Borough of Norristown and the Montgomery County Sheriffs Department are not subject to liability in a civil rights action absent a showing that unlawful actions were taken pursuant to a municipality's policies, practices, customs, regulations or enactments, Monell v. Department of Social Services, 436 U.S. 658 (1978), and that municipal practice was the cause of the injuries suffered, Bielevicz v. Dubinon, 915 F.2d 845 (3d Cir. 1990). As plaintiff has failed to allege any of these requirements, his claims against the aforementioned defendants must be dismissed as legally frivolous.

B. Fall from Sheriffs Bus

Although plaintiff's statement of claim is unclear, the Court concludes that his "John Doe" defendants are Sheriffs Department employees who were transporting him when he allegedly fell and sustained injuries. However, even if plaintiff could identify these defendants, his claims against them would be dismissed as legally frivolous. In a civil rights action brought pursuant to 28 U.S.C. § 1993, the plaintiff must allege that a person acting under color of law deprived him of a right secured by the constitution or federal law. See Kost v. Kozakiewicz, 1 F.3d 176, 185 (3d Cir. 1993) (listing elements of a § 1983 claim). Individuals in confinement must be provided basic needs, such as food, clothing, medical care, and protection from violence. Farmer v. Brennan, 511 U.S. 825, 832 (1994). A constitutional violation only occurs when an alleged deprivation is "sufficiently serious,"

and officials acted with "deliberate indifference" to prisoner health or safety. Wilson v. Seiter, 501 U.S. 294, 298 (1992).

Plaintiff does not allege, nor do the facts of the complaint suggest, that the defendants were aware of a serious risk of harm to plaintiff and failed to take appropriate corrective measures. Plaintiff's assertion that he "got caught up" and fell while exiting the Sheriffs Department bus does not suggest that the defendants knew of a serious danger which they chose to ignore. While regrettable, the facts asserted in this complaint indicate, at most, negligence on the part of the defendants. Negligent conduct which causes unintended injury to a prisoner does not amount to a constitutional violation. Davidson v. Cannon, 474 U.S. 344, 347-48 (1986).

II. CONCLUSION

For the foregoing reasons, dismissal of this action as legally frivolous pursuant to 28 U.S.C. § 1915(e) is appropriate. Such dismissal is without prejudice to plaintiff's right to bring a legal action, if he has not done so already, in the appropriate forum pursuant to 28 U.S.C. § 1391(b), to redress his claims pertaining to denial of medical care, conditions of confinement, and access to the courts, which did not arise in this judicial district.

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

ALFONSO SALLEY

v.

JOHN DOE, et al.

CIVIL ACTION

NO. 99-3119

JUN 15 1999
: :
: :
Dep. Clerk

O R D E R

AND NOW, to wit, this 15 day of July, 1999, having considered plaintiff's complaint and motion to proceed in forma pauperis, IT IS ORDERED that:

1. Leave to proceed in forma pauperis is GRANTED; and
2. The complaint is DISMISSED pursuant to 28 U.S.C. § 1915(e), without prejudice as provided in the accompanying memorandum.

BY THE COURT:


LOUIS C. BECHTLE, J.