

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

30/1/87

KEVIN WILLIAMS,  
Plaintiff

vs.

JAMES S. PRICE,  
Superintendent;  
DEPUTY SUPERINTENDENT,  
name unknown;  
Defendants.

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) Civil Action No. 99-427  
) Judge William L. Standish  
) Magistrate Judge Sensenich  
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MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

**I. RECOMMENDATION**

It is recommended that Plaintiff's complaint be dismissed in accordance with the Prison Litigation Reform Act, 28 U.S.C. § 1915(e)(2)(B)(ii) and/or 28 U.S.C. § 1915A.

**II. REPORT**

Plaintiff, Kevin Williams, an inmate currently incarcerated at the State Correctional Institution at Huntingdon, Pennsylvania, commenced this action pursuant to the Civil Rights Act of 1871, 42 U.S.C. § 1983. Named as Defendants are James Price, Superintendent and Deputy Superintendent, name unknown. Plaintiff alleges that Defendants violated his rights as protected by the Eighth and Fourteenth Amendments of the United States Constitution.

**A. Standard of Review**

In the Prison Litigation Reform Act ("PLRA"), Pub. L. No. 104-134, 110 Stat. 1321 (1996), Congress adopted major changes

affecting civil rights actions brought by prisoners in an effort to curb the increasing number of frivolous and harassing law suits brought by persons in custody. Pertinent to the case at bar is the authority granted to federal courts for *sua sponte* screening and dismissal of prisoner claims. Specifically, Congress enacted a new statutory provision at 28 U.S.C. § 1915A, entitled "Screening," which requires the court to review complaints filed by prisoners seeking 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> He is seeking redress from officers or employees of a governmental entity and he has been granted leave to proceed in forma pauperis in this action.<sup>2</sup> Thus, this Court is required to review his allegations 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. Dec. 23, 1996); Whitehead v. Becton, 1996 WL 761937 (D.C. Cir. 1996).

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<sup>1</sup> 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).

<sup>2</sup> See Doc. # 2.

<sup>3</sup> 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).

## B. Plaintiff's Claim

In his complaint, Plaintiff alleges that on June 18, 1998, at the Western State Correctional Institution, he was handcuffed in a cell for several hours. His requests for release were ignored and, as a result, he defecated on himself.

## C. Liability under 42 U.S.C. § 1983

To state a claim under 42 U.S.C. § 1983, a plaintiff must meet two threshold requirements. He must allege: 1) that the alleged misconduct was committed by a person acting under color of state law; and 2) that as a result, he was deprived of rights, privileges, or immunities secured by the Constitution or laws of the United States. West v. Atkins, 487 U.S. 42 (1988); Parratt v. Taylor, 451 U.S. 527, 535 (1981), *overruled in part on other grounds*, Daniels v. Williams, 474 U.S. 327, 330-331 (1986).

Plaintiff alleges that Defendants violated his rights under the Eighth Amendment. The Eighth Amendment protects individuals against the infliction of "cruel and unusual punishments." U.S. Const. amend. VIII. This protection, enforced against the states through the Fourteenth Amendment, guarantees incarcerated persons humane conditions of confinement.

Every Eighth Amendment claim alleging cruel and unusual punishment embodies both an objective and a subjective component. First, the alleged deprivation must be objectively sufficiently serious. Second, the defendant prison official must have a sufficiently culpable state of mind. See Farmer v. Brennan,

511 U.S. 825, 834 (1994). The objective component relates to the "seriousness of the injury" and focuses on whether there has been a deprivation or infliction of pain serious enough to implicate constitutional concerns. The subjective component requires inquiry into the defendant's state of mind to determine whether the infliction of pain was "unnecessary and wanton." *Id.* at 6-7. "Unless it appears that the evidence, viewed in the light most favorable to the plaintiff, will support a reliable inference of wantonness in the infliction of pain under the standard we have described, the case should not go to the jury." Whitley v. Albers, 475 U.S. 312, 322 (1986).

The allegations in Plaintiff's Complaint do not support a cause of action under the Eighth Amendment. Specifically, his allegations, broadly construed, do not show that he experienced any significant risk to his health or safety. Nor does he claim that he was denied any food, shelter, medical treatment, protection from harm, or any other basic necessity required by the Constitution. Moreover, plaintiff does not allege that he suffered any injury that rises to the level of constitutional significance. See Riley v. Dorton, 115 F.3d 1159 (4th Cir.) (officer's use of handcuffs and slapping inmate across the face did not state a claim for excessive force as injuries inflicted were *de minimis*), *cert. denied*, 118 S.Ct. 631 (1997); Carter v. Morris, 164 F.3d 215, 219 n.3 (4th Cir. 1999) (plaintiff's claim that her handcuffs were too tight and that an officer pushed her legs was insubstantial and

could not as a matter of law support a claim for excessive force).

Although Plaintiff experienced an unpleasant situation while he was handcuffed in his cell, his allegations simply do not rise to the level of a violation of the Eighth Amendment. See Key v. McKinney, 176 F.3d 1083, 1086 (8th Cir. 1999) (state prison inmate who was restrained in handcuffs and leg shackles for 24 hours did not suffer a serious deprivation of the minimal civilized measure of life's necessities as required for Eighth Amendment claim). Accordingly, Plaintiff's Complaint should be dismissed on the basis that it fails to state a claim upon which relief may be granted under 42 U.S.C. § 1983.

### III. CONCLUSION

It is recommended that Plaintiff's complaint be dismissed in accordance with the Prison Litigation Reform Act, 28 U.S.C. § 1915(e)(2)(B)(ii) and/or 28 U.S.C. § 1915A.

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

  
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ILA JEANNE SENSENICH  
U.S. Magistrate Judge

Dated: September 29, 1999

cc: The Honorable William L. Standish  
United States District Judge

Kevin Williams, DF-3489

S.C.I. Dallas

Drawer K

Follies Road

Dallas, PA 18612

(CERTIFIED MAIL, RETURN RECEIPT REQUESTED)