

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

GREGORY HUBBARD,)
)
 Plaintiff,)
)
 v.) Civ. No. 00-386-SLR
)
 STANLEY TAYLOR, DEPARTMENT OF)
 CORRECTIONS, COMMISSIONER,)
 RAPHAEL WILLIAMS, WARDEN,)
 MULTI-PURPOSE CRIMINAL)
 JUSTICE FACILITY, and M. JANE)
 BRADY, ATTORNEY GENERAL,)
 STATE OF DELAWARE,)
)
 Defendants.)

Gregory Hubbard, Smyrna, Delaware.
Plaintiff Pro Se.

Richard W. Hubbard, Deputy Attorney General, Wilmington,
Delaware.
Counsel for Defendants.

MEMORANDUM OPINION

Dated: August 4, 2004
Wilmington, Delaware

ROBINSON, Chief Judge

I. INTRODUCTION

Plaintiff Gregory Hubbard¹ filed this action on April 11, 2000, against Delaware Department of Correction Commissioner Stanley Taylor, Warden Raphael Williams, and Attorney General M. Jane Brady. (D.I. 2) Plaintiff, who was being held as a pretrial detainee, alleges constitutional violations arising from the conditions of confinement at the Multi-Purpose Criminal Justice Facility in Wilmington, Delaware ("Gander Hill"), pursuant to 42 U.S.C. § 1983. (Id.) The court has jurisdiction over plaintiff's claims pursuant to 28 U.S.C. § 1331. Currently before the court is defendants' motion for summary judgment. (D.I. 36) For the reasons that follow, defendants' motion shall be granted.

II. BACKGROUND

The constitutional violations alleged by plaintiff arise from alleged overcrowding at Gander Hill. Plaintiff alleges that each "pod" at Gander Hill currently houses sixty inmates, many of whom are pretrial detainees. Plaintiff also alleges that each pod is designed to house only twenty inmates. (D.I. 2 at 6) According to plaintiff, inmates housed at Gander Hill suffer in a variety of ways as a result of this alleged overcrowding.

Plaintiff complains of a number of unsanitary conditions at

¹Although Matthew Major and James Wilson filed suit with plaintiff Hubbard, Major is deceased and Wilson was dismissed for failing to pay the filing fee. (D.I. 14)

Gander Hill. According to plaintiff, three men are housed in a cell originally constructed for a maximum of two people and, as a result, one person is forced to sleep on a mattress on the floor next to the toilet. (Id.) Plaintiff also alleges that the trays and utensils used for serving and eating food are not properly sanitized due to the use of sinks for both laundry and culinary purposes. (Id. At 7)

Plaintiff contends that a number of services are not readily available due to the overcrowding, and that the overcrowding impedes the daily shower habits of inmates, interferes with telephone access, and limits access to the law library. (Id. at 8) Plaintiff also contends that the number of inmates per pod makes it impossible to place legal phone calls in order to stay abreast of developments in any pending lawsuits. (Id. at 10) Further, the large number of inmates housed in each pod leads to arguments over what television program to watch, since there is only one television per pod. (Id. at 8) Finally, plaintiff alleges that use of recreational facilities, such as the gym and fitness center, is made impossible because the facilities are used to house approximately one hundred and fifty inmates. (Id.) Plaintiff asserts that a ninety percent lockdown further deprives the inmates of these services and activities at Gander Hill. (Id. at 13)

Plaintiff complains that laundry is returned in an unclean

state due to the significant amount of clothing in need of cleaning. (Id. at 10) Plaintiff also complains that food portions fall short of meeting the demand of each pod because the preparations are for forty people, not sixty. (Id.) Plaintiff asserts that most inmates do not have pillows and that winter clothing is unavailable. (Id. at 13)

Plaintiff contends that employment opportunities are diminished due to the overcrowding. The only employment available to unsentenced inmates is a job as a "tier man." (Id. at 7) These individuals are responsible for serving food, cleaning the pod, and delivering laundry and supplies in exchange for good time credits and a small wage. (Id.) There are only two tier men per pod. Plaintiff contends that the sixty people housed in each pod makes it increasingly difficult to secure a position as a tier man. (Id.)

Plaintiff alleges a lack of responsiveness by the medical department to sick calls due to the ratio of inmates to medical personnel. (Id. at 11) According to plaintiff, treatment is delayed for over two months after submitting a sick call. (Id.) Plaintiff also asserts that Gander Hill prohibits Muslim inmates from praying in groups while allowing inmates of other faiths to do so. (Id.) Finally, plaintiff alleges that the inmates at Gander Hill are subject to mental and physical abuse. (Id. at 14) Plaintiff contends that guards often use racial epithets

when addressing inmates, and the current conditions of confinement at Gander Hill result in physical abuse to the inmates. (Id.)

On May 30, 2000, plaintiff, along with additional inmates, filed a second lawsuit in this court against defendants Taylor, Williams, and Brady. Hubbard v. Taylor, Civ. No. 00-531-SLR (D. Del. Mar. 28, 2003). The allegations in the subsequent suit were nearly identical to those in the instant case. Plaintiffs alleged overcrowding, triple-bunking, and mattresses on the floor. (Id. at 10) Plaintiffs also alleged a lack of access to recreational facilities, inadequate food portions, lack of access to the law library, frequent lockdowns, lack of access to showers, and inadequate medical care. (Id.) Finally, plaintiffs complained of unsanitary conditions in laundry and food services. (Id.) On March 28, 2003, the court concluded that plaintiffs had not alleged constitutional violations and granted defendants' motion for summary judgment. (D.I. 37, ex. D) That decision is presently on appeal to the Third Circuit. Hubbard v. Taylor, Civ. No. 03-272 (3d Cir. May 2, 2003) (notice of appeal filed).²

III. STANDARD OF REVIEW

A court shall grant summary judgment only if "the pleadings, depositions, answers to interrogatories, and admissions on file,

²In this subsequent suit, the court recognized the seriousness of plaintiffs' allegations and granted their motion for representation by counsel.

together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). The moving party bears the burden of proving that no genuine issue of material fact exists. See Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586 n.10 (1986). "Facts that could alter the outcome are 'material,' and disputes are 'genuine' if evidence exists from which a rational person could conclude that the position of the person with the burden of proof on the disputed issue is correct." Horowitz v. Fed. Kemper Life Assurance Co., 57 F.3d 300, 302 n.1 (3d Cir. 1995) (internal citations omitted). If the moving party has demonstrated an absence of material fact, the nonmoving party then "must come forward with 'specific facts showing that there is a genuine issue for trial.'" Matsushita, 475 U.S. at 587 (quoting Fed. R. Civ. P. 56(e)). The court will "view the underlying facts and all reasonable inferences therefrom in the light most favorable to the party opposing the motion." Pa. Coal Ass'n v. Babbitt, 63 F.3d 231, 236 (3d Cir. 1995). The mere existence of some evidence in support of the nonmoving party, however, will not be sufficient for denial of a motion for summary judgment; there must be enough evidence to enable a jury reasonably to find for the nonmoving party on that issue. See Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249 (1986). If the nonmoving party

fails to make a sufficient showing on an essential element of its case with respect to which it has the burden of proof, the moving party is entitled to judgment as a matter of law. See Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986).

IV. DISCUSSION

Defendants contend that the principle of res judicata precludes plaintiff's present suit. Res judicata, or claim preclusion, "prohibits reexamination not only of matters actually decided in the prior case, but also those that the parties might have, but did not assert in that action." Edmundson v. Borough of Kennett Square, 4 F.3d 186, 189 (3d Cir. 1993). Claim preclusion requires: (1) a final judgment on the merits in a prior suit involving (2) the same parties or their privies; and (3) a subsequent suit based on the same cause of action. See Churchill v. Star Enter., 183 F.3d 184, 194 (3d Cir. 1999).

Applying the above standard to the facts of record, it is clear that plaintiff's second suit was subject to a final adjudication on the merits. "The law is clear that summary judgment is a final judgment on the merits sufficient to raise the defense of res judicata in a subsequent action between the parties." Hubicki v. ACF Industries, Inc., 484 F.2d 519, 524 (3d Cir. 1973). While the present suit may contain additional allegations, they merely elaborate upon those allegations contained in the subsequent lawsuit, and do not constitute a new

cause of action.

Second, there is identity of parties sufficient to bar relitigation of plaintiff's claims. Res judicata applies equally when there is complete identity of parties, privity with prior parties, or when the parties have an otherwise close or particular relationship. See Gambocz v. Yelencsics, 468 F.2d 837, 842 (3d Cir. 1972). Each party named in this suit was a party named in the prior adjudicated suit; therefore, identity of parties is present.

Third, the causes of action are identical. In each case, plaintiff alleges that he was subject to constitutional violations arising from the conditions of confinement. Each allegation centers around overcrowding and its effects on the inmates housed at Gander Hill. Focusing, as the Third Circuit instructs, not on a mechanical application of the res judicata test but rather on its ultimate purpose of requiring a plaintiff to present all claims arising out of the same occurrence in a single suit, the court concludes that plaintiff's claims may not be pursued a second time. See Bd. of Tr. v. Centra, 983 F.2d 495, 504 (3d Cir. 1992). The court's March 28, 2003 decision in the related case determined that the plaintiffs had failed to allege constitutional violations. Therefore, claim preclusion applies and plaintiff's present suit is barred as a matter of law.

V. CONCLUSION

For the reasons stated, the court shall grant defendants' motion for summary judgment. An appropriate order shall issue.