

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

GREGORY HUBBARD, et al.,)
)
 Plaintiffs,)
)
 v.) Civil Action No. 00-531-SLR
)
STANLEY TAYLOR, et al.,)
)
 Defendants.)

MEMORANDUM ORDER

I. INTRODUCTION

On May 30, 2000, plaintiffs Gregory Hubbard et al. filed this action pro se against defendants, Stanley Taylor, Raphael Williams and M. Jane Brady. (D.I. 38) Plaintiffs moved for appointment of counsel which was granted. (D.I. 48, 107) Paul Crawford was recognized as representing plaintiffs on November 8, 2001. (D.I. 112) Counsel filed an amended complaint January 23, 2002. (D.I. 115) Currently before the court are defendants' motion to dismiss, defendants' motion to stay discovery with respect to plaintiffs' discovery requests to the Department of Correction, defendants' motion for summary judgment, plaintiffs' motion for class certification, and plaintiffs' cross-motion for summary judgment. (D.I. 131, 135, 149, 154, 156) Oral argument on plaintiffs' motion for class certification, defendants' motion

for summary judgment and plaintiffs' cross-motion for summary judgment was heard March 11, 2003.

For the reasons that follow, the court shall grant defendants' motion to dismiss, defendants' motion to stay discovery with respect to plaintiffs' discovery requests to the Department of Correction, and defendants' motion for summary judgment. Plaintiffs' motion for class certification is denied as moot. Plaintiffs' cross-motion for summary judgment is denied.

II. BACKGROUND

In their initial pro se complaint, plaintiffs alleged various grievances related to overcrowding at the Multi-Purpose Criminal Justice Facility, Wilmington, Delaware ("Gander Hill"). (D.I. 38) Plaintiffs alleged that three inmates were being kept in cells originally designed for one person which resulted in one inmate having to sleep on a mattress on the floor, sometimes for months at a time. (Id.) Overcrowded conditions also resulted in inmates being housed in the gym and fitness center. (Id.) Plaintiffs also alleged that food was often served cold, there was a lack of access to the law library, frequent lockdowns resulted in inmates being confined to their cells for eight to sixteen hours a day, and there was inadequate access to medical care. (Id.)

Plaintiffs' amended complaint reiterated these allegations as well as noted that they sought to maintain the action as a class on behalf of themselves and all others who were, are now or in the future will be confined to Gander Hill. (D.I. 115) Plaintiffs alleged that defendants manifested deliberate indifference to prisoners' conditions in failing to provide plaintiffs with basic necessities of life, including adequate habitable space, exercise, personal safety, food and health care. (Id. at 13)

Overcrowding allegations by plaintiffs center around the detention of pretrial detainees in the West Wing of Gander Hill. (Id.) This is the older wing of the prison. (D.I. 151 at A77) Cells in this wing are approximately seven feet by ten feet and were designed to hold one person. (D.I. 115 at 5) A pod comprises a grouping of 20 cells and a common area of approximately 3,900 square feet, approximately one-quarter of which is occupied by furniture that is permanently fixed in position. (Id.) The West Wing primarily houses pretrial detainees. (D.I. 151 at A51) Each cell comprises a bunk bed in addition to a single desk and toilet/sink combination. (Id. at A52) On numerous occasions, the cells have housed three persons, the third person being relegated to sleeping on a mattress on the floor. (D.I. 115 at 5) A third person may be in the cell for

months at a time. (D.I. 151 at A98 (six or seven months), A108 (month and a half to two months), A122 (approximately six months), A149 (four months))

Plaintiffs also complain of occasionally being served cold food and inadequate portions. (D.I. 115 at 8)

Plaintiffs also allege overcrowding has led to inadequate access to medical care at Gander Hill. (Id. at 8-11) Plaintiffs allege that sick call slips were responded to slowly and sometimes not at all. (D.I. 151 at A96 (delay in seeing medical personnel after eye injury), A109 (two-day delay in getting x-ray followed by six-day delay before placing cast on broken leg), A124 (five-day delay in seeing medical personnel for injured finger), A154 (no response to sick call slips))

III. STANDARD OF REVIEW

The court has jurisdiction pursuant to 28 U.S.C. § 1331. In analyzing a motion to dismiss pursuant to Rule 12(b)(6), the court must accept as true all material allegations of the complaint and it must construe the complaint in favor of the plaintiff. See Trump Hotels & Casino Resorts, Inc. v. Mirage Resorts, Inc., 140 F.3d 478, 483 (3d Cir. 1998). "A complaint should be dismissed only if, after accepting as true all of the facts alleged in the complaint, and drawing all reasonable inferences in the plaintiff's favor, no relief could be granted

under any set of facts consistent with the allegations of the complaint." Id. Claims may be dismissed pursuant to a Rule 12(b)(6) motion only if the plaintiff cannot demonstrate any set of facts that would entitle him to relief. See Conley v. Gibson, 355 U.S. 41, 45-46 (1957). The moving party has the burden of persuasion. See Kehr Packages, Inc. v. Fidelcor, Inc., 926 F.2d 1406, 1409 (3d Cir. 1991).

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

A. Defendants' Motion to Dismiss Department of Correction as Defendant.

Defendants have moved to dismiss the Department of Correction as a defendant. (D.I. 131) The court notes that the Eleventh Amendment bars suit against state defendants in their official capacities. See Pennhurst State Sch. & Hosp. v. Halderman, 465 U.S. 89, 100 (1984) ("[I]n the absence of consent,

a suit [in federal court] in which the State or one of its agencies or departments is named as the defendant is proscribed by the Eleventh Amendment.”).

As an agency of the State, the Department of Correction is thus immune from suit. Therefore, defendants’ motion to dismiss the Department of Correction as a defendant from the complaint is granted.

B. Defendants’ Motion to Stay Discovery.

Plaintiffs filed a notice for a Rule 30(b)(6) deposition of the Department of Correction on May 9, 2002. (D.I. 135 at 2) As noted above, the Department of Correction has been dismissed as a defendant. Therefore, defendants’ motion to stay discovery with respect to plaintiffs’ discovery requests to the Department of Correction is granted.

C. Defendants’ Motion for Summary Judgment.

At oral argument, both parties agreed that the motion and cross-motion for summary judgment stood or failed on the issue of whether sleeping on a mattress on the floor was per se a violation of plaintiffs’ constitutional rights. (Transcript at 39-41) The court has determined that there are two components to deciding this issue. The first is the standard under which the alleged violation is to be judged; the second is whether under this standard, there is a violation of a constitutional right.

1. Standard for determining whether a constitutional violation has occurred.

The U.S. Supreme Court set the standard for determining whether a condition of confinement of pretrial detainees violated their constitutional rights in Bell v. Wolfish, 441 U.S. 520 (1979). Whether there is a constitutional violation turns on whether the "disability is imposed for the purpose of punishment or whether it is but an incident of some other legitimate governmental purpose." Id. at 538. The government may detain an individual; the necessary inquiry is whether the conditions and restrictions of the detention amount to punishment. Id. at 536-37. "A court must determine whether a confinement . . . restriction is punitive by weighing the evidence that it is intended to punish, purposeless, or arbitrary against the possibility that it is 'an incident of some other legitimate governmental purpose,' such as 'maintaining institutional security and preserving internal order.'" Simmons v. City of Phila., 947 F.2d 1042, 1068 (3d. Cir. 1991) (quoting Bell, 441 U.S. at 538, 546)).

Accordingly, pretrial detainees' constitutional rights are violated when they are merely "punished" whereas sentenced inmates' constitutional rights are violated when their punishment rises to the level of cruel and unusual. It would appear,

therefore, that the test for whether there is a violation of constitutional rights is different for pretrial detainees than for sentenced inmates. Nevertheless, in Bell v. Wolfish and later cases, it is clear that when a court is considering general, non-medical conditions of confinement, the standard is the same for both pretrial detainees and sentenced inmates. The Third Circuit in Kost v. Kozakiewicz, 1 F.3d 176 (3d Cir. 1993), while holding that with respect to claims of inadequate medical treatment, "no determination has yet been made regarding how much more protection unconvicted prisoners should receive," id. at 188 n.10, went on to state that the Eighth Amendment standard for determining whether conditions of confinement amount to cruel and unusual punishment "would also apply to appellants as pretrial detainees through the Due Process Clause." Id. at 188. This court likewise has found that pretrial detainees are afforded essentially the same protection as convicted prisoners and that an Eighth Amendment analysis is appropriate for determining if the conditions of confinement rise to the level of a constitutional violation. See Ellegood V. Taylor, No. 01-213, Robinson, J., 2002 WL 449758 (D.Del. March 18, 2002)¹. The court

¹ The relevant constitutional provision is not the Eighth Amendment but the Due Process Clause of the Fourteenth Amendment. "[T]he State does not acquire the power to punish

concludes that the appropriate analytical framework for plaintiffs' claim is the Eighth Amendment.

2. Per se Violation.

Plaintiffs contend that forcing pretrial detainees to sleep on mattresses on the floor for more than a few days is a per se constitutional violation.

Plaintiffs point to Lareau v. Manson, 651 F.2d 96 (2nd Cir. 1981), and Union County Jail Inmates v. Di Buono, 713 F.2d 984 (3d Cir. 1983), for the proposition that mattresses on the floor, particularly as applied to pretrial detainees, are a per se constitutional violation. The court finds these cases, and cases citing them, to be inapposite because the factual situations in those cases are significantly different from the factual situation at issue. Because it is ostensibly controlling precedent, the court will examine in some detail the Union County

with which the Eighth Amendment is concerned until after it has secured a formal adjudication of guilt in accordance with due process of law." Ingraham v. Wright, 430 U.S. 651, 671 n.40 (1977). Case law has established, however, that pretrial detainees are afforded essentially the same level of protection under the Fourteenth Amendment; therefore, an Eighth Amendment analysis is still appropriate. See, e.g., City of Revere v. Mass. Gen. Hosp., 436 U.S. 239 (1983). Ellegood V. Taylor, No. 01-213, Robinson, J., 2002 WL 449758 (D.Del. March 18, 2002) at *1 n.1.

decision. The court will also examine a few other selected cases that cite that case to uphold their decisions, as well as the Lareau case.

In the district court case leading to the appeal in Union County, the court found six specific conditions that constituted punishment when considered in the light of the totality of the circumstances.

- (1) housing two, three, four or more inmates in detention cells without adequate sleeping arrangements, for more than a few days;
- (2) requiring detainees to sleep on mattresses laid adjacent to toilets in single cells, for more than a few days;
- (3) requiring detainees to sleep on mattresses laid on the floor in other parts of the jail, for more than a few days;
- (4) requiring detainees to wear the same clothing for several weeks, in violation of N.J.A.C. 10A:31-3.13;
- (5) failing to screen new inmates for communicable diseases;
- (6) depriving detainees of any meaningful opportunity for recreation.

Union County, 713 F.2d at 993 n.11.

On appeal, defendants did not "contest the unconstitutionality of forcing pretrial detainees to sleep for more than a few days on mattresses placed on the floor of a 5' x 7' cell . . ." Id. at 994. Thus, the constitutionality or unconstitutionality of mattresses on the floor was not at issue on appeal. The fact that the Third Circuit agreed with the district court finding of unconstitutionality must be considered

dicta. In addition, there were other conditions of confinement at issue in the Union County case, such as requiring inmates to wear the same clothing for several weeks, failing to screen new inmates for communicable diseases, and depriving detainees of any meaningful opportunity for recreation, that are not at issue in the present case.

The presence of other conditions at issue also arises in later cases in the Third Circuit. For example, in Newkirk v. Sheers, 844 F. Supp. 772 (E.D. Pa. 1993), while the court held that forcing pretrial detainees to sleep on mattresses on the floor for periods between six and 14 days violated detainees' constitutional rights, the more critical issue in that case was the blanket strip and visual body cavity search policy of the county. In addition, there was evidence that prison officials had alternatives to mattresses on the floor which they did not utilize. Id. at 783.

Likewise, in Anela v. City of Wildwood, 790 F.2d 1063 (3d Cir. 1986), the Third Circuit reversed a district court finding that detainees' constitutional rights had not been violated where detainees had no place to sleep. However, the more significant issue was the onerous municipal bail requirements in violation of New Jersey Rule 3:4-1, which imposes a duty to issue summonses to

criminal defendants after completion of the post-identification procedures following their arrest. Id. at 1066-67.

Even in Lareau v. Manson, there were conditions of confinement of detainees that were over and above the practice of forcing detainees to sleep on the floor. These included placing detainees in the "fishtank" and medical unit practices. Lareau, 651 F.2d at 98-100.

It is evident that, even though courts have characterized mattresses on the floor as being a violation of detainees' constitutional rights, these same courts have considered the totality of the circumstances of confinement (and not solely the single issue of mattresses on the floor) in reaching their findings that detainees' constitutional rights have been violated by the conditions of their confinement.

3. Totality of the Circumstances.

In order to prevail on their claim that they are being punished, plaintiffs must show that sleeping on mattresses on the floor deprived them of the "minimal civilized measures of life's necessities." See Rhodes v. Chapman, 452 U.S. 337, 347 (1981). In reviewing this claim, the court must examine the "totality of the circumstances within the institution" in order to discover whether the overall conditions at Gander Hill deprived plaintiffs of an "identifiable human need, such as food, warmth, or

exercise.” Dickinson v. Taylor, 2000 WL 1728363 (D.Del) at *2, citing Wilson v. Seiter, 501 U.S. 294, 304-05 (1991). In Wilson, the Court held that “[n]othing so amorphous as ‘overall conditions’ can rise to the level of cruel and unusual punishment when no specific deprivation of a single human need exists.” 501 U.S. at 304-05. In addition to a necessary deprivation of a basic human need, the Court in Wilson established that if the deprivation is “not formally meted out as **punishment** . . . some mental element must be attributed to the inflicting officer before it can qualify.” Id. at 300 (emphasis in original).

Under an Eighth Amendment analysis, this court has previously held that having to sleep on a mattress on the floor does not rise to the level of a constitutional violation. For example, in Dickinson, the court held that “in light of the prison overcrowding problem and the need for prison authorities to take interim measures to house inmates within a limited space, the fact that an inmate had to sleep on the floor in crowded or dirty conditions is insufficient to state a claim under Section 1983.” Dickinson at *3, citing Martin v. Brewington-Carr, Civ. A. No. 98-4, slip op. at 2 (D.Del Dec. 31, 1997). See also Renn

v. Taylor, No. 99-765, Robinson, J., 2001 WL 657591 (D. Del. March 2, 2001)².

Because the court finds no constitutional violation, the issue of whether defendants acted with deliberate indifference need not be reached.

VI. CONCLUSION

Therefore, at Wilmington this 28th day of March, 2003;

IT IS ORDERED that:

1. Defendants' motion to dismiss Department of Correction as a defendant from the complaint (D.I. 131) is granted.

2. Defendants' motion to stay discovery (D.I. 135) is granted.

3. Defendants' motion for summary judgment (D.I. 149) is granted.

4. Plaintiffs' cross-motion for summary judgment (D.I. 156) is denied.

² While sleeping on the floor is not ideal, the court recognizes, as numerous other courts in this circuit have, that prison overcrowding is now a fact of life. As long as plaintiff is receiving adequate food, shelter, and clothing, sleeping on the floor is not a violation of the Eighth Amendment.

Renn v. Taylor, No. 99-765, Robinson, J., 2001 WL 657591 (D. Del. March 2, 2001 at *3 (citations omitted).

5. Plaintiffs' motion for class certification (D.I. 154) is denied as moot.

6. The Clerk of the Court is ordered to enter judgment in favor of defendants and against plaintiffs.

Sue L. Robinson
United States District Judge