

FARNAN, District Judge.

Plaintiff Samuel T. Poole (hereinafter "Plaintiff") is a pro se litigant who is presently incarcerated at the Delaware Correctional Center ("DCC") in Smyrna, Delaware. His SBI number is 337607. At the time Plaintiff filed this complaint, he was incarcerated at the Multi-Purpose Criminal Justice Facility ("MPCJF") located in Wilmington, Delaware. On September 22, 1999, Plaintiff filed this action pursuant to 42 U.S.C. § 1983 and requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915.

I. STANDARD OF REVIEW

The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331. Reviewing complaints filed pursuant to 28 U.S.C. § 1915 is a two step process. First, the Court must determine whether the Plaintiff is eligible for pauper status. The Court granted Plaintiff's request to proceed in forma pauperis pursuant to 28 U.S.C. § 1915 on September 22, 1999 and ordered Plaintiff to pay \$24.00 as an initial partial filing fee within thirty days or the case would be dismissed. Plaintiff paid the full filing fee on October 20, 1999.

Next, the Court must determine whether the action is frivolous, malicious, fails to state a claim upon which relief may be granted or seeks monetary relief from a defendant

immune from such relief pursuant to 28 U.S.C. §§
1915(e)(2)(B)-1915A(b)(1).¹

When reviewing complaints pursuant to 28 U.S.C. §§
1915(e)(2)(B)-1915A(b)(1), the Court must apply the standard
of review set forth in Fed. R. Civ. P. 12(b)(6). See Neal v.
Pennsylvania Bd. of Probation and Parole, No. 96-7923, 1997 WL
338838 (E.D. Pa. June 19, 1997)(applying Rule 12(b)(6)
standard as appropriate standard for dismissing claim under
§ 1915A). Accordingly, the Court must "accept as true the
factual allegations in the complaint and all reasonable
inferences that can be drawn therefrom." Nami v. Fauver, 82
F.3d 63, 65 (3d Cir. 1996). Pro se complaints are held to
"less stringent standards than formal pleadings drafted by
lawyers and can only be dismissed for failure to state a claim
if it appears 'beyond doubt that the plaintiff can prove no
set of facts in support of his claim which would entitle him

¹ These two statutes work in conjunction. Section
1915(e)(2)(B) authorizes the Court to dismiss an in forma
pauperis complaint at any time, if the Court finds the
complaint is frivolous, malicious, fails to state a claim upon
which relief may be granted or seeks monetary relief from a
defendant immune from such relief. Section 1915A(a) requires
the Court to screen prisoner complaints seeking redress from
governmental entities, officers or employees before docketing,
if feasible and to dismiss those complaints falling under the
categories listed in
§ 1915A (b)(1).

to relief.'" Estelle v. Gamble, 429 U.S. 97, 106 (1976) (quoting Conley v. Gibson, 355 U.S. 41, 45-46 (1957)).

The standard for determining whether an action is frivolous is well established. The Supreme Court has explained that a complaint is frivolous "where it lacks an arguable basis either in law or in fact." Neitzke v. Williams, 490 U.S. 319, 325 (1989).² For the reasons discussed below, the Court will dismiss the Complaint as frivolous pursuant to 28 U.S.C. §§ 1915(e)(2)(B)-1915A(b)(1).

II. DISCUSSION

A. Complaint

In his Complaint, Plaintiff alleges that the overcrowded conditions at MPCJF violate his right to be free from cruel and unusual punishment under the Eighth Amendment. Specifically, Plaintiff alleges that when he first arrived at MPCJF, he was housed in the Booking and Receiving Area and had to sleep on a cot on the floor (D.I. 2 at 3). After about one week, Plaintiff alleges that he was moved with his cot to the floor of the Fitness Center, which lacked bathroom facilities.

² Neitzke applied § 1915(d) prior to the enactment of the Prisoner Litigation Reform Act of 1995 (PLRA). Section 1915 (e)(2)(B) is the re-designation of the former § 1915(d) under the PLRA. Therefore, cases addressing the meaning of frivolousness under the prior section remain applicable. See § 804 of the PLRA, Pub.L.No. 14-134, 110 Stat. 1321 (April 26, 1996).

(D.I. 2 at 4). A month later, Plaintiff alleges that he was moved with his cot to the floor of an overcrowded housing unit where he encountered some insects. (D.I. 2 at 4). According to Plaintiff, Defendants are reluctant to acknowledge the overcrowded situation. (D.I. 2 at 4).

Plaintiff requests the Court to issue a declaratory judgment stating that the overcrowded conditions at MPCJF violate the Eighth Amendment. (D.I. 2 at 5). Plaintiff also requests the Court to issue an injunction ordering Defendants to either construct bunks for all inmates currently sleeping on the floor with cots, or divert these inmates to less crowded lower level facilities. (D.I. 2 at 5). Finally, Plaintiff requests compensatory and punitive damages in an unspecified amount for all inmates currently required to sleep on the floor with cots. (D.I. 2 at 5). Because Plaintiff is no longer incarcerated at MPCJF, his request for injunctive relief is moot. See e.g. Weaver v. Wilcox, 650 F.2d 22, 27 (3d Cir. 1981); Jerry v. Francisco, 632 F.2d 252 (3d Cir. 1980).

B. Analysis

"It is undisputed that the treatment a prisoner receives in prison and the conditions under which he is confined are subject to scrutiny under the Eighth Amendment."

Helling v. McKinney, 509 U.S. 25, 32 (1993). However, in order to establish an Eighth Amendment violation, a plaintiff must allege that he has endured a sufficiently serious deprivation and that the defendant has acted with deliberate indifference to the plaintiff's plight. Wilson v. Seiter, 501 U.S. 294, 298 (1991). Thus, in order to prove that the general overcrowded conditions at MPCJF violate the Eighth Amendment, Plaintiff must satisfy a two prong test which is both objective and subjective. Id.

To satisfy the objective prong, Plaintiff must allege that he is "incarcerated under conditions posing a substantial risk of serious harm." Farmer v. Brennan, 511 U.S. 825, 834 (1994) (citing Helling v. McKinney, 509 U.S. at 35). Serious harm will be found only when the conditions of confinement "have a mutually enforcing effect that produces the deprivation of a single identifiable human need such as food, warmth, or exercise," and "[n]othing so amorphous as 'overall conditions' can rise to the level of [such a violation] when no specific deprivation of a single human need exists." Blizzard v. Watson, 892 F.Supp. 587, 598 (D. Del. 1995) (citing Wilson v. Seiter, 501 U.S. at 303-304).

After reviewing Plaintiff's allegations in light of the applicable standard of review, the Court concludes Plaintiff's

allegations concerning the overcrowded conditions of confinement at MPCJF as presented by the Complaint lack an arguable legal basis. Specifically, Plaintiff fails to allege the type of threat of serious harm posed by the alleged overcrowded conditions that courts have found may support a constitutional violation. While the overcrowded conditions at MPCJF are of concern, the case precedent in this area of the law requires the Court to overlook the type of problems alleged by Plaintiff. Jackson v. Brewington-Carr, No. 97-270, 1999 U.S. Dist. WL 27124 (D. Del. Jan 15, 1999); Randall v. City of Philadelphia, No. 86-6300, 1987 U.S. Dist. WL 14383 (E.D. Pa. July 22, 1987) (dismissing as frivolous inmate's allegations that he was required to sleep on the floor for a period of time and that he was transferred to a section of the prison with broken showers, broken windows and no toilet paper); Huttich v. Philadelphia Prison System, No. 86-3714, 1986 U.S. Dist. WL 10558 (E.D. Pa. Sep. 18, 1986) (collecting cases in which courts have held that no constitutional violation arises from inmates having to sleep on the floor in crowded, unclean rooms). Accordingly, the Court concludes that Plaintiff's claims concerning the overcrowded conditions at MPCJF lack an arguable legal basis, and therefore, the Plaintiff's Complaint will be dismissed as frivolous pursuant to 28 U.S.C. §§ 1915 (e)(2)(B)-1915A(b)(1).

III. CONCLUSION

For the reasons discussed, the Court will dismiss as frivolous Plaintiff's Complaint (D.I. 2).

An appropriate Order will be entered.

