

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

MICHAEL MARTIN, :
 :
 Plaintiff, :
 :
 v. : Civil Action No. 00-1055-JJF
 :
 RICK KERNEY, LT. MESSICK and :
 LT. ATALLIAN, :
 :
 Defendants. :

Michael Martin, Pro Se.

Ophelia M. Waters, Esquire, DELAWARE DEPARTMENT OF JUSTICE,
Wilmington, Delaware.
Attorney for Defendants.

MEMORANDUM OPINION

March 27, 2002
Wilmington, Delaware

FARNAN, District Judge.

Presently before the Court is a Motion to Dismiss filed by Rick Kerney, Lt. Messick, and Lt. Atallian (hereinafter "Defendants"). (D.I. 15).¹ For the reasons discussed, Defendants' Motion to Dismiss will be granted.

BACKGROUND

In October 2000, Plaintiff Michael Martin (hereinafter "Plaintiff") was a pre-trial detainee in the Delaware Department of Correction at the Sussex Correctional Institute (hereinafter "SCI"). (D.I. 2; D.I. 15). By his Complaint, Plaintiff alleges that on October 19, 2000 he was assaulted by a sentenced inmate, Mr. Bland (hereinafter "Inmate Bland"), in the pre-trial unit of SCI. (D.I. 2). Plaintiff alleges that correctional officers witnessed Inmate Bland slap Plaintiff in the face. See D.I. 2; D.I. 15 & Ex. A-1 to A-3. After the assault, a nurse examined Plaintiff, and noted that Plaintiff's only injury was a minor scratch on his left cheek. (D.I. 15, Ex. A-1). Inmate Bland was immediately moved to the behavior modification unit pending a disciplinary hearing. (D.I. 15; D.I. 15, Ex. B). At the disciplinary hearing Inmate Bland pled guilty to the assault and received 30 days probation. (D.I. 15, Ex. C-1, C-2). After the assault, Plaintiff filed a grievance requesting that SCI file formal assault charges against Inmate Bland, but the request was denied. (D.I. 2, Ex. F).

¹Because Plaintiff did not file an answering brief as ordered by the Court, the Court will render its decision on the papers submitted. (D.I. 16).

Plaintiff was ultimately convicted of the crime for which he was a pretrial detainee, and subsequently released from SCI on February 13, 2001. (D.I. 15). On December 18, 2000, Plaintiff filed this action pursuant to 42 U.S.C. § 1983 and was granted leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. (D.I. 1). The instant motion followed.

DISCUSSION

In his Complaint, Plaintiff seeks (1) "for this Court to bring charges against [SCI] and Rick Kerney (Warden) for its negligence towards unsentenced inmates and compromising their safety;" (2) "to bring charges on SCI for attempting to coverup this assault that occurred on 10-19-00;" and (3) "to bring civil suit against [SCI] for failing to provide proper medical attention through medical agency hired by [SCI]." (D.I. 2). The Court will address each ground in turn.

I. Pre-Trial Classification

Plaintiff seeks "for this Court to bring charges against [SCI] and Rick Kerney (Warden) for its negligence towards unsentenced inmates and compromising their safety." (D.I. 2). Based on the content and structure of Plaintiff's allegations, the Court construes it to be a negligence claim for housing pre-trial detainees with sentenced inmates.

Initially, the Court notes that a lawfully held pre-trial detainee does not have a liberty interest in being housed in a separate unit from sentenced inmates under the Constitution or

Delaware state law. Hoover v. Watson, 886 F.Supp. 410, 417 (D.Del. 1995), aff'd 74 F.3d 1226 (3rd Cir. 1995) (citations omitted).

Further, it is well established that mere negligence by a prison official is insufficient to state a claim under § 1983. Daniels v. Williams, 474 U.S. 327, 329 (1986). Accordingly, after reviewing Plaintiff's allegations in light of the applicable facts and law, the Court concludes that Plaintiff has failed to state a claim upon which relief can be granted with regard to SCI's negligence in housing pre-trial detainees with sentenced inmates.

II. Assault

Plaintiff asks the Court "to bring charges on SCI for attempting to coverup this assault that occurred on 10-19-00." (D.I. 2). Specifically, Plaintiff contends that Defendants "did nothing" to Inmate Bland in response to the assault, and should have filed formal assault charges against him. (D.I. 2). As a result, Plaintiff contends that Defendants attempted to cover-up the assault. (D.I. 2).

Based on the content and structure of Plaintiff's Complaint the Court concludes that Plaintiff is alleging Defendant was negligent in failing to file formal criminal charges against Inmate Bland. It is well established, however, that mere negligence by a prison official is insufficient to state a claim under § 1983. Daniels v. Williams, 474 U.S. 327, 329 (1986). Further, in the Court's view, Defendants responded appropriately to the assault. Defendants reported the assault immediately, filing disciplinary charges against Inmate Bland

according to the SCI penal code. Inmate Bland was immediately placed in the behavior modification unit pending the disciplinary hearing, at which time Inmate Bland pled guilty to the assault, and was sanctioned with 30 days probation. See Bell v. Wolfish, 441 U.S. 520, 540 n.23 (1979) (stating that courts play a limited role in administering a prison facility and should defer to the expertise of prison officials in such matters). Accordingly, the Court concludes that Plaintiff has failed to state a claim upon which relief can be granted with regard to the failure to file formal assault charges and an alleged cover-up of the assault.

III. Inadequate Medical Treatment

Plaintiff seeks "to bring civil suit against [SCI] for failing to provide proper medical attention through medical agency hired by [SCI]." (D.I. 2). To state a claim for inadequate medical treatment, a plaintiff must establish that a defendant acted, or failed to act, with deliberate indifference towards a plaintiff's serious medical needs. Estelle v. Gamble, 429 U.S. 97, 106 (1976). A claim alleging mere dissatisfaction with medical treatment, however, is insufficient to state a claim under § 1983. Fitzgerald v. Septer, Civil Action No. 97-663-JJF at 2. Additionally, "medical malpractice is insufficient to present a constitutional violation." Estelle, 429 U.S. at 106.

In his Complaint, Plaintiff does not specify how the medical treatment he received was inadequate or otherwise provide a basis for his allegations. Further, Defendants contend and Plaintiff does not

refute that he was immediately examined by a nurse who concluded that Plaintiff suffered only a minor scratch. (D.I. 15). Thus, the Court concludes that Defendants did not act with indifference, nor did Plaintiff experience serious medical needs. Accordingly, the Court concludes that Plaintiff's claim is insufficient with regard to his claims of inadequate medical treatment. Therefore, the Court will grant Defendants' motion to dismiss insofar as it relates to Plaintiff's claim for inadequate medical treatment.

CONCLUSION

For the reasons discussed above, the Court will grant Defendants' Motion to Dismiss (D.I. 15).

An appropriate Order will be entered.

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ORDER

NOW THEREFORE, for the reasons set forth in the Memorandum
Opinion issued this date, IT IS HEREBY ORDERED this 27th day of March
2002 that Defendants' Motion To Dismiss (D.I. 15) is **GRANTED**.

JOSEPH J. FARNAN, JR.
UNITED STATES DISTRICT JUDGE