

Farnan, District Judge.

By an Order of the Court (D.I. 35), (1) Defendant's Motion To Dismiss (D.I. 25) was granted; (2) Plaintiff's Motion To Amend Complaint And Add Defendants (D.I. 27) was denied; (3) Plaintiff's Motion For Discovery Of Arraignment Transcripts As Well As Video Arraignments Audio And Video (D.I. 29) was denied; and (4) Defendant's Motion For Protective Order (D.I. 32) was denied for the reasons discussed below.

BACKGROUND

On October 8, 2002, Plaintiff Russell M. Grimes, a pro se litigant, appeared before Commissioner Michael Reynolds of the Superior Court of Delaware for New Castle County on various traffic violation charges. (D.I. 26 at A-2.) Commissioner Reynolds dismissed one of the charges against Plaintiff and set unsecured bail in the amount of \$500.00 for the remaining three charges. However, despite the bail being unsecured, the Department of Corrections ("DOC") held Plaintiff in custody, contending that Plaintiff had a prior pending charge for receiving stolen property for which bail had been set at \$500.00, secured. (D.I. 26 at A-1); (D.I. 33 at B-1).

On October 16, 2002, Plaintiff filed a writ of habeas corpus in Superior Court contending that, because his bail was unsecured at the October 8, 2002, arraignment, the DOC illegally prevented him from leaving its custody. On October 25, 2002, the State of

Delaware Superior Court denied Plaintiff's writ, concluding that Plaintiff was properly held on secured bail for his receiving stolen property charge. (D.I. 26, Ex. A-1.) On November 4, 2002, Plaintiff pled guilty to the charge of receiving stolen property and his traffic violations were nolle prossed. (D.I. 26, Ex. A-7.)

On February 5, 2002, pursuant to 42 U.S.C. § 1983, Plaintiff filed the instant action, claiming that Raphael Williams, as Warden of the Multi-Purpose Criminal Justice Facility, and Stanley Taylor, as Commissioner of the Department of Correction, deprived him of his due process rights by unlawfully imprisoning him from October 9, 2002, to November 4, 2002. (D.I. 2.) Plaintiff contends that his detention prevented him from obtaining a lawyer and, consequently, forced him to plead guilty to the receiving stolen property charge.

Plaintiff subsequently filed an Amended Complaint alleging that, "[s]ince this incident occurred [h]e has been restless, anxious and often depressed." (D.I. 11.) Plaintiff also asserts that he was subjected to cruel and unusual punishment. Plaintiff requests that the Court award him compensatory and punitive damages in the amount of \$1,000,000.00.

On April 16, 2003, Plaintiff filed a letter requesting that the Court add Laurie McBride as a defendant. (D.I. 13.) The letter alleged that Ms. McBride, who supervised Plaintiff's

arraignment, "knowingly and maliciously refuse[d] to obey court commissioner Michael Reynolds [sic] command of releasing plaintiff on unsecured bond." (Id.) The Court construed the letter as a motion to amend the Complaint pursuant to Fed. R. Civ. P. 15(a) and granted the motion.

Subsequently, the Court dismissed Plaintiff's claims against Mr. Williams and Mr. Taylor. The Court reasoned that Plaintiff appeared "to be basing his claims against [Mr. Williams and Mr. Taylor] solely on a vicarious liability theory" and that "nothing in the complaint indicate[d] these defendants were the 'driving force [behind]' Defendant[] McBride's alleged failure to release Plaintiff, or that they were aware of Plaintiff's allegations or remained 'deliberately indifferent' to his plight." (D.I. 16 at 7-8 (quoting Sample v. Diecks, 885 F.2d 1099, 1118 (3d Cir. 1989).) The Court also found that Plaintiff's unlawful imprisonment claim was not frivolous and allowed Plaintiff to proceed against Ms. McBride.

Pending before the Court are four motions. Defendant filed a Motion To Dismiss (D.I. 25), to which Plaintiff has not responded. Plaintiff filed Motion To Amend Complaint And Add Defendants (D.I. 27), seeking to add claims against "defendants from the Records Department Gander Hill Prison," and "court clerk John Doe for Weldon Harris," presumably for the aforementioned Section 1983 violations. The State has not responded to

Plaintiff's motion to amend. Plaintiff has also filed a Motion For Discovery Of Arraignment Transcripts As Well As Video Arraignments Audio And Video (D.I. 29), and, in opposition to this motion, Defendant filed a Motion For Protective Order (D.I. 32). Because the Court will grant Defendant's Motion To Dismiss (D.I. 25), Plaintiff's motion to amend will be denied as futile and the remaining discovery motions will be denied as moot.

STANDARD OF REVIEW

A motion to dismiss tests the legal sufficiency of the complaint. Conley v. Gibson, 355 U.S. 41, 45-56 (1957). In reviewing a motion to dismiss pursuant to Rule 12(b)(6), courts "must accept as true the factual allegations in the [c]omplaint and all reasonable inferences that can be drawn therefrom." Langford v. City of Atlantic City, 235 F.3d 845, 847 (3d Cir. 2000). A court will grant a motion to dismiss only when it appears that a plaintiff could prove no set of facts that would entitle him or her to relief. Id.

DISCUSSION

Defendant moves for dismissal on the following grounds: (1) the appropriate method for Plaintiff to seek redress is to file a writ of habeas corpus and not a Section 1983 action; (2) Plaintiff has failed to indicate any involvement of Defendant in the deprivation of his rights; (3) Defendant is entitled to sovereign immunity for acts she took in her official capacity;

(4) Defendant is entitled to immunity under the State Tort Claims Act for any individual torts she may have committed; (5) Plaintiff cannot demonstrate that Defendant acted with the deliberate indifference necessary to establish a claim for cruel and unusual punishment; and (6) Plaintiff was properly held pursuant to secured bail. Because the Court agrees with Defendant that Plaintiff was properly held pursuant to a lawful order for secured bail, the Court will not address Defendant's other contentions.

Plaintiff contends that his incarceration was not pursuant to a lawful order for secured bail. Plaintiff contends that on October 8, 2002, during Plaintiff's arraignment, Commissioner Reynolds ordered Plaintiff's bail to be unsecured on all the charges "in order for [him] to be released." (D.I. 2 at 3.) In support of his argument, Plaintiff cites the October 9, 2002, Commitment/Release Statement, which summarized the October 8, 2002, arraignment. (D.I. 26, Ex. A-2.) The Statement states in its "bale changes" table that the person filling out the form must "Fill in [the table] only if bail is changed or set." According to Plaintiff, this phrase means, "if bail is set or changed fill in the blanks." The table lists only the four traffic violation charges. Plaintiff argues that, since the Statement does not list the receiving stolen property charge, secured bail could not be set for that charge. Plaintiff also

contends that the Superior Court Docket (D.I. 33, Ex. B-2.) indicates that the charge was no longer pending.

Defendant responds that Plaintiff was legally held pursuant to a secured bail order. Defendant contends that the Commitment/Release Statement expressly provides that the release was "only on charges listed"--i.e., the traffic charges. The Statement indicates that the "next proceeding," i.e., the proceeding on the also pending receiving stolen property charge, would be on November 4, 2002. Defendant does not respond to Plaintiff's argument regarding the "next proceeding."

Accepting Plaintiff's factual allegations as true, the Court concludes that the DOC was legally authorized to detain Plaintiff based on the pending charge of receiving stolen property and its attendant \$500.00 secured bail.

A review of the Commitment/Release Statement does not support Plaintiff's claim. Plaintiff incorrectly reads "Fill in only if bail is changed or set" to mean "if bail is set or changed fill in the blanks." The former restricts the type of bail which can be listed; the latter places an affirmative duty on the person filling out the form to include all set or changed bail that applies to a defendant. Moreover, to clarify, the author of the Commitment/Release Statement wrote in the "release box" that the release applied "only on the charges listed," not, for example, to the unlisted receiving stolen property charge.

Furthermore, the Commitment/Release Statement states that the "next proceeding," after the arraignment, was to be held on November 4, 2002, at 9:00am. A next proceeding would have been unnecessary if no pending charges remained.

Plaintiff's second argument that the Superior Court Docket indicated that the stolen property charge was no longer pending is likewise unpersuasive. That docket included the Superior Court order which denied Plaintiff's petition for a writ of habeas corpus. At the conclusion of that order, the court stated, "On October 8, 2002, [Plaintiff] appeared before Commissioner Reynolds, who set bail at \$500 secured. [Plaintiff] is held in default of bail, awaiting trial on the Sept 23, 2002 indictment." (D.I. 26, Ex. A-1.) Thus, at least one docket entry clearly indicates that the receiving stolen property charge was still pending.

In sum, the Court concludes that Plaintiff was legally held based on the pending charge of receiving stolen property and its attendant \$500.00 secured bail. As a result, the Court concludes that Plaintiff's motion to amend would be futile.

CONCLUSION

For the reasons discussed, the Court has granted (1) Defendant's Motion To Dismiss (D.I. 25) and denied (2) Plaintiff's Motion To Amend Complaint And Add Defendants (D.I. 27); (3) Plaintiff's Motion For Discovery Of Arraignment

Transcripts As Well As Video Arraignments Audio And Video (D.I. 29); and (4) Defendant's Motion For Protective Order (D.I. 32).