IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

RICHARD FRINK,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 04-026 GMS
	)	
RAPHAEL WILLIAMS,	)	
GEORGE HAWTHORNE,	)	
PERRY PHELPS, CPT LEE, and	)	
MEDICAL HEALTH SERVICES	)	
ADMINISTRATOR,	)	
	)	
Defendants.	)	

MEMORANDUM

I. INTRODUCTION

Richard Frink ("Frink") is presently incarcerated at the Delaware County Prison, George W. Hill Correctional Facility, in Thornton, Pennsylvania.[1] On January 13, 2004, Frink filed this *pro se* civil rights action pursuant to 42 U.S.C. §1983 against Raphael Williams ("Williams"), in his capacity as warden of HRYCI, George Hawthorne ("Hawthorne"), in his capacity as deputy warden, Perry Phelps ("Phelps"), in his capacity as deputy warden, Cpt. Bradley Lee ("Lee"), and Medical Health Services Administrator ("Medical"). In his complaint, Frink alleges that he was provided inadequate medical care when he was administratively segregated from the general prison population, resulting in his right ankle becoming stiff and causing him pain. Frink is seeking both punitive and compensatory damages from the defendants.

[1] The alleged violations of Frink's civil rights occurred at the State of Delaware Department of Correction ("DOC"), Howard R. Young Correctional Institute ("HRYCI"), where Frink was formerly incarcerated.

Presently before the court is Williams', Phelps', and Lee's (collectively, the "defendants") motion to dismiss pursuant to Federal Rules of Civil Procedure 12(b)(6). For the following reasons, the court will grant this motion.

II. BACKGROUND

On April 19, 2001, Frink began serving a sentence at HRYCI. Frink alleges that one week after he was incarcerated he was transferred from the general prison population, without explanation, and administratively segregated for a period of nine months. According to Frink, the administrative segregation deprived him of his right to visitation, recreation, use of phone and other communications, hygiene, and medical attention. Frink alleges that, as a result of this segregation, he was provided with inadequate medical care, which caused his right ankle to become stiff and generate pain, both physical and psychological. He further alleges that the medical staff at the institution failed to provide him proper treatment, and that the treatment provided was not equivalent to that given other detainees. Frink alleges that he filed grievances regarding his medical treatment through the prison's standard internal grievance procedure. Additionally, he alleges that he spoke with and wrote to a number of correction officials and medical staff.

III. STANDARD OF REVIEW

The purpose of a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) is to test the sufficiency of a complaint, not to resolve disputed facts or decide the merits of the case. *See Kost v. Kozakiewicz*, 1 F.3d 183 (3d Cir. 1993). Thus, the court must accept the factual allegations of the complaint as true. *See Graves v. Lowery*, 117 F.3d 723, 726 (3d Cir. 1997); *Nami v. Fauver*, 82 F.3d 63, 65 (3d Cir. 1996). In particular, the court looks to "whether sufficient facts are pleaded to determine that the complaint is not frivolous, and to provide defendants with adequate

notice to frame an answer." *Colburn v. Upper Darby Tp.*, 838 F.2d 663, 666 (3d Cir.1988). However, the court need not "credit a complaint's 'bald assertions' or 'legal conclusions' when deciding a motion to dismiss." *Morse v. Lower Merion Sch. Dist.*, 132 F.3d 902, 906 (3rd Cir.1997). A court should dismiss a complaint "only if it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations." *See Graves*, 117 F.3d at 726; *Nami*, 82 F.3d at 65 (both citing *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957)). Thus, in order to prevail, a moving party must show "beyond doubt that the plaintiff can prove no set of facts in support of his claim [that] would entitle him to relief." *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957).

IV. DISCUSSION

The defendants move for dismissal, asserting that: (1) they are entitled to sovereign immunity for action taken in their official capacities; (2) the complaint fails to allege any personal involvement by them in the deprivation of Frink's rights; (3) they cannot be held liable, absent personal involvement, under the doctrine of *respondeat superior*; and (4) Frink cannot demonstrate that he has any liberty interest in remaining in the general prison population and, therefore, cannot prove a violation of any Due Process right. Because the court agrees that the defendants cannot be held liable under the doctrine of *respondeat superior*, there is no need to address their other contentions.

In order to recover against the defendants, Frink must show that he was deprived of a constitutional right by a person acting under the color of state law. *See*, *e.g.*, *Groman v. Township of Manalpan*, 47 F.3d 628, 633 (3d Cir. 1995) (citing *Gomez v. Toledo*, 446 U.S. 635, 640 (1980)). In this case, it is clear that the defendants were acting under color of state law because, at the time

of the alleged incident, they were employed as warden, deputy warden, and administrator of segregation, respectively, at HRYCI. *See Cespedes v. Coughlin*, 956 F. Supp. 454, 465 (S.D.N.Y. 1997). Therefore, the court next turns to whether Frink has sufficiently alleged that any of the defendants deprived him of a constitutional right.

The State of Delaware has an obligation to provide "adequate medical care" to the individuals who are incarcerated in its prisons. *See Inmates of Allegheny County Jail v. Pierce*, 612 F.2d 754, 672 (3d Cir. 1979) (citations omitted). To recover for the denial of medical care, Frink must show that a prison official or employee was deliberately indifferent to his serious medical needs or acted with reckless disregard for his condition. *See Miller v. Correctional Medical Sys., Inc.*, 802 F. Supp. 1126, 1130 (D. Del. 1992).

Thus, in order to withstand a motion to dismiss, a claim that prison authorities provided inadequate medical care in violation of Eighth Amendment protections must include acts or omissions by a defendant that evidence deliberate indifference towards serious medical needs. *Estelle v. Gamble*, 429 U.S. 97, 104 (1976); *Rouse v. Plantier*, 182 F.3d 192, 197 (3d Cir. 1999) (stating that to succeed on such claims, plaintiffs must demonstrate that: "(1) the defendants were deliberately indifferent to their medical needs and (2) that those needs were serious.").

The deliberate indifference prong is met only if the prison official "knows and disregards an excessive risk to inmate health or safety; the official must both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference." *Farmer v. Brennan*, 511 U.S. 825, 837 (1994); *Rouse*, 182 F.3d at 197. The plaintiff must show a sufficiently culpable state of mind which demonstrates an unnecessary and wanton infliction of pain. *Wilson v. Seiter*, 501 U.S. 294 (1991); *Rouse*, 182 F.3d at 197. Mere allegations

of negligence do not meet the pleading standards for deliberate indifference. *See Estelle*, 429 U.S. at 105-106. Nor can the claim rest solely on the prisoner's dissatisfaction with the medical care he has received. *Id*. at 107.

An inmate's condition is "serious" when it is so obvious that an ordinary person would easily recognize the need for a doctor's attention or when a physician has concluded that treatment is required. *See Monmouth County Correctional Inst. Inmates v. Lanzaro*, 834 F.2d 326 (3d Cir.1987). The "seriousness" prong is met also if the effect of denying or delaying care results in wanton infliction of pain or a life-long handicap or permanent loss. *Id*. In addition, the "condition must be such that a failure to treat can be expected to lead to substantial and unnecessary suffering, injury or death." *See Colburn v. Upper Darby Township*, 946 F.2d 1017, 1023 (3d Cir.1991).

With these standards in mind, the court turns to an analysis of Frink's claim that the defendants deprived him of proper medical care. In order to hold the defendants liable, Frink must allege an act or omission by them that demonstrates deliberate indifference to his serious medical needs. *See City of Canton v. Harris*, 489 U.S. 378 (1989); *Sample v. Diecks*, 885 F.2d 1099, 1118 (3d Cir. 1989). In his complaint, Frink does not contend that the defendants were personally involved in his segregation or the medical care provided to him while segregated. Rather, Frink asserts that because of their supervisory roles, the defendants were indirectly responsible.[2] Thus, Frink's claim against the defendants is premised on the doctrine of *respondeat superior*. It is well established, however, that absent some sort of personal involvement in the allegedly unconstitutional conduct, a defendant accused of a §1983 violation cannot be held liable under a *respondeat superior*

[2] Indeed, the only mention of the defendants in Frink's complaint is in the caption, where he alleges that Williams, Phelps, and Lee are warden, deputy warden, and administrator of segregation, respectively.

theory. *See Fagan v. City of Vineland*, 22 F.3d 1283, 1291 (3d Cir. 1994); *Gay v. Petsock*, 917 F.2d 768 (3d Cir. 1990).

Given the foregoing, Frink has failed to state a claim against the defendants. Accordingly, his complaint will be dismissed.

Dated: December 6, 2004

Gregory M. Sleet
UNITED STATES DISTRICT JUDGE

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MEDICAL HEALTH SERVICES	)	
ADMINISTRATOR,	)	
	)	
Defendants.	)	

ORDER

For the reasons stated in the court's Memorandum of this same date, IT IS HEREBY ORDERED that:

1. The defendants' Motion to Dismiss (D.I. 9, 17, 20) is GRANTED.

Dated: December 6, 2004

Gregory M. Sleet
UNITED STATES DISTRICT JUDGE