

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

DAVID STEVENSON, MICHAEL )  
MANLEY, and MICHAEL L. JONES, )  
 )  
Plaintiffs, )  
 )  
v. ) Civil Action No. 04-139-KAJ  
 )  
THOMAS CARROLL, )  
 )  
Defendant. )

**MEMORANDUM ORDER**

**I. INTRODUCTION**

Presently before me is a Motion to Dismiss (Docket Item ["D.I."] 24) and a Motion for a Protective Order (D.I. 26) filed by Thomas Carroll ("Defendant"). Also before me is an Amended Motion for Order to Show Cause and a Temporary Restraining Order (D.I. 14) and a Motion to Compel Discovery (D.I. 31) filed by David Stevenson, Michael Manley, and Michael L. Jones (collectively "Plaintiffs"). Plaintiffs, who are inmates at the Delaware Correctional Center (the "DCC"), brought this action under 42 U.S.C. § 1983 alleging violations of their rights under the Eighth and Fourteenth Amendments to the United States Constitution. (D.I. 1-4.) Jurisdiction is proper under 28 U.S.C. § 1331. For the reasons that follow, Defendant's Motions to Dismiss will be granted and the remaining Motions will be dismissed as moot.

**II. BACKGROUND**

The Plaintiffs had been sentenced to death by the Superior Court of Delaware. (D.I. 4, Ex. 1 at 3.) On or about May 30, 2001, however, the sentences were vacated

and the case was remanded to the Superior Court for review of the sentences. Plaintiffs were then moved from the death-row tier of the DCC to a more secure section for pre-trial detainees.<sup>1</sup> (*Id.*) At the time of the filing of the Complaint, Plaintiffs had been housed in the more restrictive section for 32 months. (*Id.* at 4.) Plaintiffs assert that they have never been given an explanation as to why they have been placed in their more restrictive housing within the prison. (*Id.*) Plaintiffs wrote to Defendant, the Warden of the prison, to complain about their assignment to the restrictive section of pre-trial housing but they did not receive a reply. (*Id.* at 2.)

### III. STANDARD OF REVIEW

In deciding a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6), the factual allegations in the complaint must be accepted as true. *Cruz v. Beto*, 405 U.S. 319, 322 (1972) (*per curiam*). This is especially true where, as here, the complaint is filed *pro se*. *Estelle v. Gamble*, 429 U.S. 97, 106 (1976) (citations omitted). A *pro se* complaint can only be dismissed for failure to state a claim if it appears “beyond doubt that a plaintiff can prove no set of facts in support of his claim which would entitle him to relief.” *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957). However, broad, unsupported allegations do not preclude dismissal and do not constitute a cause

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<sup>1</sup>There appears to be a disagreement between Defendant and Plaintiffs over whether the area in which Plaintiffs were housed is considered isolation. (See D.I. 25, Ex. A at 1.) Additionally, Plaintiffs list a number of rules and restrictions that are enforced in their housing area to highlight the differences between their housing section and the normal pre-trial housing section. (D.I. 4, Ex. 1 at 3.) As Plaintiffs do not allege that the prison conditions alone are a violation of their constitutional rights, but rather allege that the decision to house them there is a such a violation, an exact understanding of their present housing situation is not required.

of action. *Signore v. City of McKeesport*, 680 F. Supp. 200, 203 (W.D. Pa. 1988), *aff'd*, 877 F.2d 54 (3d Cir. 1989).

#### **IV. DISCUSSION**

Plaintiffs argue that their assignment to the more restrictive section of pre-trial housing, without explanation, is a violation of their constitutional rights under 42 U.S.C. § 1983. (D.I. 4.) The Supreme Court has held, however, that “[i]t is plain that the transfer of an inmate to less amenable and more restrictive quarters for nonpunitive reasons is well within the terms of confinement ordinarily contemplated by a prison sentence.” *Hewitt v. Helms*, 459 U.S. 460, 468 (1983). The Court has further stated “that federal courts ought to afford appropriate deference and flexibility to state officials trying to manage a volatile environment. . . . Such flexibility is especially warranted in the fine-tuning of the ordinary incidents of prison life, a common subject of prisoner claims.” *Sandin v. Conner*, 515 U.S. 472, 482-483 (1995). More specifically, this court has held that the transfer of an inmate from general population to “administrative segregation without being given notice and an opportunity to argue against the transfer” is not a violation of the inmates constitutional rights. *Brown v. Cunningham*, 730 F. Supp. 612, 614 (D. Del. 1990).

Looking at the case law, it is evident that Plaintiffs have failed to state a claim upon which relief can be granted. The prison’s decision to place Plaintiffs in a more secure housing section is exactly the type of decision the Supreme Court noted when it held that federal courts should defer to prison officials with respect to managing the “ordinary incidents of prison life. *Sandin*, 515 U.S. at 482-483. Therefore, even assuming all the facts pleaded in the Plaintiffs’ Complaint are true, they have failed to

state a claim upon which relief can be granted. Consequently, Defendant's Motion to Dismiss will be granted and all other motions will be dismissed as moot.

**V. CONCLUSION**

Accordingly, it is hereby ORDERED that Defendants' Motion to Dismiss (D.I. 24) is GRANTED, and Defendant's Motion for a Protective Order (D.I. 26), Plaintiffs' Amended Motion for Order to Show Cause and Temporary Restraining Order (D.I. 14) and Motion to Compel Discovery (D.I. 31) are all dismissed as moot.

Kent A. Jordan  
UNITED STATES DISTRICT JUDGE

December 7, 2004  
Wilmington, Delaware