

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CHARLES N. SCHOOLFIELD, :
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 Plaintiff, :
 :
 v. :
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MICHAEL DELOY, Deputy Warden, :
 :
 :
 Defendant. :

Civil Action No. 99-340-JJF

Charles N. Schoolfield, Pro Se Plaintiff.

Stuart B. Drowos, Esquire of the DEPARTMENT OF JUSTICE OF THE
STATE OF DELAWARE, Wilmington, Delaware.
Attorney for Defendant.

MEMORANDUM OPINION

March 14, 2001

Wilmington, Delaware

Farnan, District Judge.

Pending before the Court is Motion To Dismiss (D.I. 15) filed by Defendant, Michael Deloy. Plaintiff, Charles N. Schoolfield, an inmate at the Sussex Correctional Institute ("SCI"), filed the instant action pursuant to 42 U.S.C. § 1983. In his Complaint, Plaintiff alleges that Defendant violated his due process rights under the Fourteenth Amendment by terminating his employment in the prison law library. Plaintiff also raises an equal protection claim to the extent that he contends that his termination was based upon his race. By his Motion To Dismiss, Defendant refers only to Plaintiff's due process claims. Accordingly, for the reasons discussed, Defendant's Motion To Dismiss Plaintiff's due process claim will be granted. Plaintiff's equal protection claim shall remain pending and Defendant shall file a response to the remaining claim, in the form of an Answer or other pleading, within thirty days of the date of the Court's Order.

BACKGROUND

In early 1999, Plaintiff and two other inmates, David Andrews and Robert Saunders, were employed at SCI's law library. (D.I. 2 at 5). During their employment, inmate Andrews made inappropriate approaches toward the law librarian paralegal, Dianne Ranger. (D.I. 2 at 5). Ms. Ranger reported the incident to prison supervisors, and Inmate Andrews was terminated from his

job in the law library and referred to the disciplinary officer. After further investigation, prison officials decided to transfer the remaining workers, Plaintiff and Inmate Saunders to other jobs in the prison. (D.I. 16, Ex. A). Inmate Saunders accepted a new job in the kitchen, but Plaintiff did not want to accept any other work. (D.I. 2 at 7).

By his Complaint, Plaintiff alleges that he was improperly dismissed from his law library job at SCI "as a result of another inmate's actions, even after it was proven I had no connection with the incident." (D.I. 2 at 2, 6). In lieu of filing an Answer to the Complaint, Defendant filed the instant Motion To Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). To date, Plaintiff has failed to file any response to Defendant's Motion. Accordingly, the Court will proceed to the merits of Defendant's Motion on the papers before it.

STANDARD OF REVIEW

Pursuant to Rule 12(b)(6), a party may move to dismiss a pleading for failure to state a claim upon which relief may be granted. Fed. R. Civ. P. 12(b)(6). The purpose of a motion to dismiss is to test the sufficiency of a complaint, not to resolve disputed facts or decide the merits of the case. Kost v. Kozakiewicz, 1 F.3d 176, 183 (3d Cir. 1993). As such, when considering a motion to dismiss, a court must accept as true all allegations in the complaint and must draw all reasonable factual

inferences in the light most favorable to the plaintiff. Neitzke v. Williams, 490 U.S. 319, 326 (1989); Piecknick v. Pennsylvania, 36 F.3d 1250, 1255 (3d Cir. 1994). However, the court is "not required to accept legal conclusions either alleged or inferred from the pleaded facts." Kost, 1 F.3d at 183. Dismissal is only appropriate when "it appears beyond doubt that the plaintiff can prove no set of facts in support of his claims which would entitle him to relief." Conley v. Gibson, 355 U.S. 41 (1957); In re Donald J. Trump Casino Sec. Litig., 7 F.3d 357, 368-69 (3d Cir. 1993), cert. denied, 114 S. Ct. 1219 (1994). Thus, the court may dismiss a complaint when the facts pleaded and the reasonable inferences drawn therefrom are legally insufficient to support the relief sought. See Pennsylvania ex rel. Zimmerman v. PepsiCo., Inc., 836 F.2d 173, 179 (3d Cir. 1988).

DISCUSSION

In order to establish a claim under Section 1983, a plaintiff must show: (1) the conduct complained of was committed by a person acting under color of state law, and (2) the conduct deprived the plaintiff of a federally secured right. Davidson v. Dixon, 386 F. Supp. 482, 487 (D. Del. 1974), aff'd, 529 F.2d 511 (3d Cir. 1975). By his Complaint, Plaintiff contends that the loss of his prison employment in the law library violated his due process rights. (D.I. 2, *passim*). Plaintiff also contends that he was "classified to said job by various levels of

classification boards, therefore, he should not have been removed from [his job] absent disciplinary infractions or breaking of institutional rules." (D.I. 2 at 5).

In order to establish a claim for violation of due process rights under the Fourteenth Amendment, a plaintiff must show that (1) a constitutionally protected liberty or property interest is in issue, and (2) the state utilized constitutionally deficient procedures in its deprivation of that interest. Board of Regents v. Roth, 408 U.S. 564 (1972). Thus, Plaintiff must establish that he has a protected property or liberty interest in his prison employment in order to state a cognizable claim that the loss of his employment violated his due process rights. However, the Due Process Clause alone does not create a liberty or property interest in prison employment. Abdul-Akbar v. Department of Corrections, 910 F. Supp. 986, 1002 (D. Del. 1995). Rather, a plaintiff must show either (1) that he has a "legitimate claim of entitlement" to prison employment; Roth, 408 U.S. at 577, or (2) that failing to have such employment constitutes an "atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life." Sandin v. Conner, 515 U.S. 472 (1995).

Examining this issue, the Delaware state courts have repeatedly held that no relevant Delaware statutes create a property or liberty interest in prison employment. See e.g. Dutton v. Watson, 1994 WL 164486, *3 (Del. Super. Ct. 1994),

aff'd, 649 A.2d 227 (Del. 1994). Agreeing with the state courts, this Court has concluded that prison employment is a discretionary opportunity, and therefore, an inmate has no entitlement to a job while in prison. Abdul-Akbar, 910 F. Supp. at 1003 (holding that inmate failed to state a claim for violation of due process where inmate was summarily fired from prison job, because inmates have no constitutional right to gainful employment). Because Plaintiff has no property or liberty interest in his employment, Plaintiff cannot, as a matter of law, state a cognizable claim for violation of his due process rights based upon the loss of his prison employment.

Likewise, with respect to Plaintiff's claim that he had an interest in his job as a result of a particular classification, this Court has repeatedly determined that the applicable statutes and regulations governing the Delaware prison system do not provide inmates with a liberty interest in a particular classification within the prison system. Carrigan v. State of Delaware, 957 F. Supp. 1376, 1385 (D. Del. 1997) (holding that prisoner has no constitutionally protected interest in particular classification and collecting cases). Because Plaintiff has no constitutionally protected interest in a particular classification or placement within the prison system, the Court will grant Defendants' Motion To Dismiss Plaintiff's due process claims for failure to state a claim upon which relief may be

granted.

CONCLUSION

For the reasons discussed, Defendant's Motion To Dismiss Plaintiff's due process claims will be granted. Plaintiff's equal protection claim will remain pending, and Defendant shall file a response to the remaining claim, in the form of an Answer or other pleading, within thirty days of the date of the Court's Order.

An appropriate Order will be entered.