

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ROGER ATKINSON, :
 :
 Plaintiff, :
 :
 v. : Civil Action No. 99-562 JJF
 :
 Correctional Officer :
 FRED WAY, :
 :
 Defendant. :

Richard H. Morse, Esquire of YOUNG CONAWAY STARGATT & TAYLOR,
LLP, Wilmington, Delaware.
Attorney for Plaintiff.

Gregory E. Smith, Esquire, Deputy Attorney General, STATE OF
DELAWARE DEPARTMENT OF JUSTICE, Wilmington, Delaware.
Attorney for Defendant.

MEMORANDUM OPINION

July 19, 2004

Wilmington, Delaware

Farnan, District Judge.

Presently before the Court is the Motion For Judgment As A Matter Of Law Or In The Alternative For New Trial filed by Defendant Fred Way. (D.I. 174.) For the reasons discussed, the Court will deny the Motion.

BACKGROUND

Plaintiff initiated this action on August 20, 1999, alleging that various acts by the original Defendants violated his constitutional rights. Following trial, the jury returned a verdict finding that Defendant Fred Way ("Defendant Way") violated Plaintiff's constitutional rights, causing Plaintiff injury. The jury awarded Plaintiff \$85,000 in compensatory damages and \$15,000 in punitive damages on Plaintiff's retaliation claim. (D.I. 162, 163.) By his Motion, Defendant Way moves for judgment as a matter of law, a set-aside of the compensatory damages award, or a new trial on damages.

STANDARDS OF REVIEW

I. Judgment as a Matter of Law

A court may grant a motion for judgment as a matter of law if, in view of the admitted evidence, no reasonable jury could have decided in the non-moving party's favor. Walter v. Holiday Inns, Inc., 985 F.2d 1232, 1238 (3d Cir. 1993) (citing Indian Coffee Corp. v. Procter & Gamble Co., 752 F.2d 891, 894 (3d Cir. 1985)). Courts "do not follow the rule that a scintilla of

evidence is enough. The question is not whether there is literally no evidence supporting the party against whom the motion is directed but whether there is evidence upon which the jury could properly find a verdict for that party.'" Id. (quoting Patzig v. O'Neil, 577 F.2d 841, 846 (3d Cir. 1978)). Further, in evaluating the sufficiency of the evidence, a court must give the non-moving party, "as verdict winner, the benefit of all logical inferences that could be drawn from the evidence presented, resolve all conflicts in the evidence in his favor and, in general, view the record in the light most favorable to him." Williamson, 926 F.2d at 1348 (citing Simone v. Golden Nugget Hotel & Casino, 844 F.2d 1031, 1034 (3d Cir. 1988)).

II. Motion for a New Trial

In relevant part, Rule 59 of the Federal Rules of Civil Procedure provides:

A new trial may be granted to all or any of the parties and on all or part of the issues (1) in an action in which there has been a trial by jury, for any of the reasons for which new trials have heretofore been granted in actions at law in the courts of the United States.

Fed. R. Civ. P. 59(a). The decision of whether to grant a new trial lies solely within the discretion of the district court.

Allied Chem. Corp. v. Daiflon, Inc., 449 U.S. 33, 36 (1980).

However, a court should grant a motion for a new trial only when allowing a verdict to stand would result in a miscarriage of justice. Williamson, 926 F.2d at 1352. In other words, a court

should not disturb a verdict unless the verdict, "on the record, cries out to be overturned or shocks our conscience." Id. at 1353 (citing EEOC v. Delaware Dep't of Health & Social Services, 865 F.2d 1408, 1413 (3d Cir. 1989)).

DISCUSSION

I. Parties' Contentions

Defendant Way contends that the Court should grant him judgment as a matter of law because Plaintiff failed to submit evidence by which a reasonable juror could find that Defendant Way's harassment was in retaliation for Plaintiff's filing of the instant lawsuit. Defendant Way contends that any harassment that took place began prior to Plaintiff's filing of the instant action, and therefore, cannot be in retaliation for Plaintiff's lawsuit. Defendant Way also contends that the evidence submitted at trial demonstrated that Plaintiff did not suffer any actual injury, and therefore, his compensatory damages claim is barred by 42 U.S.C. § 1997e(e). Thus, Defendant Way requests the Court to either set aside the compensatory damages verdict or to order a new trial on damages.

Plaintiff responds that Defendant Way never moved for a directed verdict, and therefore, the instant Motion is procedurally barred. Plaintiff also contends that there is substantial testimony in the record supporting the jury's finding that Defendant Way's harassment was in retaliation for Plaintiff

filing the instant lawsuit. Further, Plaintiff asserts that he suffered actual injury as a result of Defendant Way's harassment.

II. Decision

As a threshold matter, the Court observes that Defendants preserved their right to file post-trial motions. (See D.I. 185.) Accordingly, the Court will reach the merits of the instant motion.

A. Whether there is Sufficient Evidence in the Record Supporting the Jury's Finding of Retaliation

Once a plaintiff inmate demonstrates that the conduct that led to retaliation was constitutionally protected and that he or she suffered some adverse action by prison officials sufficient to deter an ordinary person from exercising his or her constitutional rights, the plaintiff inmate must prove a "causal link" between the exercise of his or her constitutional rights and the adverse action. Rausser v. Horn, 241 F.3d 330, 333-34 (3d Cir. 2001).¹ Third Circuit case law permits courts to consider a broad array of evidence in determining whether a plaintiff has established a sufficient causal link. Farrell v. Planters Lifesavers Co., 206 F.3d 271, 281-84 (3d Cir. 2000).

Applying the record evidence to the jury's finding of a causal link between Plaintiff's exercise of his constitutional

¹ Defendant Way does not assert that Plaintiff failed to establish that his right to file this lawsuit was constitutionally protected or that the alleged harassment would constitute "adverse action."

rights and the adverse action taken by Defendant Way, the Court concludes that the jury's finding was supported by legally sufficient evidence. The record evidence establishes that the jury had ample evidence from which to conclude that Defendant Way's harassment of Plaintiff was the direct result of Plaintiff's lawsuit. (See D.I. 178 Appendix ("App.") at p. 33 l. 25, p. 34 at ll. 1-20, p. 44 at l. 21- p. 45 at l. 22, p. 39 at ll. 4-12.) Accordingly, the Court is precluded from finding, as Defendant Way suggests, that the jury could not have properly returned a finding that his harassment was in retaliation for Plaintiff's exercise of his constitutionally protected rights. See Indian Coffee, 752 F.2d at 894.

B. Whether the Jury's Compensatory Damages Award Must be Set-Aside

The Prison Litigation Reform Act, 42 U.S.C. § 1997e(e), predicates a prisoner's claim for compensatory damages related to emotional or mental injury suffered while in custody on a showing of an accompanying physical injury. Mitchell v. Horn, 318 F.3d 523, 533 (3d Cir. 2003). The Third Circuit in Mitchell v. Horn held that, in order to satisfy Section 1997e(e)'s physical injury requirement, a plaintiff must demonstrate a less than significant but more than de minimis physical injury. Id. at 536. The Third Circuit's decision in Mitchell v. Horn is in accord with the Fifth, Eleventh, and Ninth Circuit's interpretations of "physical injury" in the context of Section 1997e(e). See Siglar v.

Hightower, 112 F.3d 191, 193 (5th Cir. 1997); Harris v. Garner, 190 F.3d 1279, 1286 (11th Cir. 1999), vacated and reh'g en banc granted, 197 F.3d 1059 (11th Cir. 1999), reinstated in part on reh'g, 216 F.3d 970 (11th Cir. 2000) (en banc); Oliver v. Keller, 289 F.3d 623, 627-28 (9th Cir. 2002).²

After reviewing the evidence, jury verdict, and considering the parties' arguments, the Court concludes that the jury's award of compensatory damages must stand. Initially, the Court notes that the jury was instructed that compensatory damages for psychological or emotional pain could only be awarded if they were the result of physical harm. (D.I. 160 at 28.) It is presumed that the jury followed this instruction, and therefore, the Court concludes that the jury found that Defendant Way's retaliatory actions caused Plaintiff physical harm. See United States v. Givan, 320 F.3d 452, 462 (3d Cir. 2003) (noting that "it is a basic tenet of our jurisprudence that a jury is presumed to have followed the instructions the court gave it") (citing United States v. Gilsenan, 949 F.2d 90, 96 (3d Cir.1991)).

Moreover, the Court concludes that the jury had legally

² The Third Circuit held in Allah v. Al-Hafeez, 226 F.3d 247 (3d Cir. 2000), that an incarcerated plaintiff may recover punitive and nominal damages without any predicate showing of physical injury. Id. at 251-52. In the instant case, Plaintiff was awarded \$15,000 in punitive damages and Defendant Way does not request the Court to set aside or seek a new trial with respect to this award. Accordingly, the Court will not analyze whether the jury properly concluded that Plaintiff was entitled to the award of punitive damages in this case.

sufficient evidence from which to find that the physical injury suffered by Plaintiff was more than de minimis. Among other evidence of harm, the jury heard testimony describing multiple incidents where Defendant Way denied Plaintiff his medication causing him physical pain, and medical testimony that a denial of medication would cause Plaintiff to become "severely sick" because his pituitary gland had been removed. (D.I. 178, App. at 36; D.I. 183 at 42, 29.) In resolving all conflicts in the evidence in his favor, providing him the benefit of all logical inferences drawn from the evidence presented, and reviewing the record evidence in the light most favorable to Plaintiff, the Court cannot conclude that no reasonable jury could have decided in Plaintiff's favor. See Walter, 985 F.2d at 1238.

CONCLUSION

For the reasons discussed, the Court will deny Defendant Way's Motion for a New Trial and Judgment as a Matter of Law.

An appropriate Order will be entered.

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ORDER

At Wilmington, this 19th day of July, 2004, for the reasons discussed in the Memorandum Opinion issued this date;

IT IS HEREBY ORDERED that the Motion For Judgment As A Matter Of Law Or In The Alternative For New Trial filed by Defendant Fred Way (D.I. 174) is **DENIED**.

JOSEPH J. FARNAN, JR.
UNITED STATES DISTRICT JUDGE