

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

GIBSON HALL,)
)
Plaintiff,)
)
v.) C.A. No. 05C-04-116 MMJ
)
JOE HUDSON, Manager, Support)
Services, Delaware Correctional Center,)
Bea Oney, Corporal, Mailroom,)
Delaware Correctional Center, and)
Jenny Havel, Support Services Officer,)
Delaware Correctional Center,)
)
Defendants.)

ORDER

Submitted: April 12, 2005
Decided: June 16, 2005

Plaintiff Gibson Hall filed a complaint against certain employees of the Delaware Department of Corrections (“DOC”). Plaintiff alleges that Defendants violated his constitutional rights by improperly classifying a magazine within the prison-security risk classification system. Pursuant to 42 U.S.C. § 1983, Plaintiff seeks: (1) monetary damages; (2) declaratory judgment; (3) and injunctive relief.

Plaintiff has a two-year subscription to *Black Belt* magazine. *Black Belt* magazine focuses on martial arts, specifically karate. Plaintiff has received certain

issues of the magazine and the DOC has confiscated other issues. Thirteen issues of *Black Belt* magazine were not given to Plaintiff. The DOC cited security risks as the reason for confiscating certain issues of the magazine. Plaintiff claims his civil rights were violated according to the United States and Delaware Constitutions; that the DOC provided inadequate pre-deprivation and post-deprivation hearings; and that the Delaware Correctional Center committed theft by confiscating Plaintiff's magazines.

In reviewing a complaint filed after the Court grants leave to proceed *in forma pauperis*, the Court must review the complaint to determine whether the complaint is factually or legally frivolous or malicious in nature.¹ Delaware's *in forma pauperis* statute defines a "legally frivolous" claim as one that is based on an indisputably meritless legal theory.² "Factually frivolous" claims are allegations that are baseless, of little or no weight, value or importance, not worthy of serious attention, or trivial.³

Plaintiff also seeks monetary damages pursuant to 42 U.S.C. § 1983. To bring a successful claim under Section 1983, Plaintiff bears the burden of

¹ See 10 Del. C. § 8803(b).

² 10 Del. C. § 8801(5).

³ 10 Del. C. § 8801(6)

demonstrating that Defendants, acting under the color of state law, deprived him of a constitutionally protected right.⁴

Prison regulations that allegedly infringe a prisoner's constitutional rights are judged under a reasonableness test.⁵ The reasonableness test is less restrictive than that ordinarily applied to alleged infringements of fundamental rights.⁶ The Court has supervisory powers over the administration of penal institutions, only when there is evidence of an arbitrary and capricious abuse of discretion by prison authorities or where it is clearly shown that there has been a deprivation or infringement of an inmate's constitutional rights.⁷ This Court generally is unwilling to substitute its judgment on prison administration issues for the determinations of those charged with the formidable task of running a prison. Plaintiff's complaint has not met this standard.

The reasonableness test is applied when the DOC confiscates mail. The United States Supreme Court has held that regulation of incoming mail in the prison context is not subject to the same strict or heightened scrutiny afforded in

⁴ See *Parsons v. Mumford*, 1997 Del. Super. LEXIS 540, at *12.

⁵ *O'Lone v. Estate of Shabazz*, 482 U.S. 342, 353 (1987).

⁶ *Id.*

⁷ See *State v. Cabbage*, 210 A.2d 555, 564 (Del. Super. 1965); *McCoy v. Taylor*, 1998 Del. Ch. LEXIS 220 at *11.

other First Amendment or Fourteenth Amendment contexts. The relevant inquiry is whether any such regulation is reasonably related to a legitimate penological interest. The Delaware Superior Court has noted and followed the standard mandated by the United States Supreme Court.⁸

Plaintiff's Complaint is factually frivolous. The allegations that his civil rights were violated are baseless. The DOC confiscated several magazines that taught and promoted violence. Confiscating mail when it presents a security risk does not violate one's civil rights. Plaintiff was notified that the *Black Belt* magazines in question posed security risks. Plaintiff was given written notice detailing why the magazines posed security risks. The DOC sent Plaintiff written notice on four occasions instructing Plaintiff to designate an alternate address for the magazines to be sent because they were being confiscated as a security risk.⁹

Further, the confiscation of Plaintiff's *Black Belt* magazine is reasonably related to a penological interest. The DOC has a legitimate interest in maintaining order, preventing violence, and preserving the safety of inmates and staff. Thirteen issues of *Black Belt* magazine included detailed step-by-step demonstrations of offensive and defensive violent maneuvers and techniques.

⁸ *Id.*

⁹ Plaintiff acknowledges receipt of written notice in June 2004, July 2004, August 2004, and September 2004.

These thirteen issues were deemed a security risk by the DOC. Other issues of *Black Belt* magazine that did not contain such demonstrations were not confiscated. The DOC's actions pass the less restrictive reasonableness test.

THEREFORE, Plaintiff's Complaint is legally and factually frivolous. There is no clear deprivation of Plaintiff's constitutional rights. The DOC's actions have met the reasonableness test. Thus, Plaintiff has not met his burden of demonstrating that the defendants deprived him of any constitutionally protected right. Defendant's Complaint is hereby **DISMISSED**.

IT IS SO ORDERED.

The Honorable Mary M. Johnston