NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

SOLLOG IMMANUEL ADONAI-ADONI, Plaintiff,	:	Civil Action No. 07-3689 (MLC)
v.	:	**O P I N I O N**
LEON KING II, ESQ., et al., Defendants.	:	

APPEARANCES:

Sollog Immanuel Adonai-Adoni, Pro Se, #684439
5645 Coral Ridge Drive, Coral Springs, FL 33076

Alan S. Gold, Esq.
Gold & Robins
261 Old York Road, Suite 526, Jenkintown, PA 19046
Attorney for defendants Prison Health Services, Inc., and Alyn Caulk, M.D.

COOPER, District Judge, Sitting by Designation

Plaintiff, Sollog Immanuel Adonai-Adoni, has filed a complaint under 42 U.S.C. § 1983, alleging that defendants Prison Health Systems ("PHS") and Alyn Caulk, M.D., among others, have violated his constitutional rights. Plaintiff moves for summary judgment (docket entry 32). This motion is decided without oral argument. See Fed.R.Civ.P. 78(b). Plaintiff's motion for summary judgment will be denied.

BACKGROUND

Plaintiff alleges that on September 6, 2005, he was beaten by prison guards, resulting in a "possible broken rib," a torn

rotator cuff, and cracked teeth. (Compl., ¶¶ 19, 20). Plaintiff states that:

> The Plaintiff has not received proper medical care for his serious injuries from this assault. His teeth are still cracked causing great pain. His shoulder is permanently injured causing intense pain. PHS- Prison Health Services and Dr. Caulk and the dental medical staff of P[hiladelphia] P[rison] S[ystem] have shown deliberate indifference to the pain and suffering the Plaintiff endures over these serious injuries that were not properly treated.

(Compl., ¶ 26).

In this motion for summary judgment, Plaintiff responds to PHS and Caulk's motion to dismiss, submitting that these defendants, by not yet submitting any denial of the claims in the complaint, have admitted the allegations against them. However, the Court notes that defendants were waiting disposition of their motion to dismiss.[1] Further, Plaintiff alleges, as he does in his complaint, that these defendants were deliberately indifferent to his medical needs.

DISCUSSION

Summary judgment is appropriate when "the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law." Fed.R.Civ.P. 56(c).

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[1] This Court has granted PHS and Caulk's motion to dismiss in a separate order.

As demonstrated above, there are clearly genuine issues of material fact in this case that preclude summary judgment in Plaintiff's favor. Defendants King, Butler, Tabita, Philadelphia Prison System, and the City of Philadelphia dispute Plaintiff's allegations of wrongdoing and constitutional violations in their Answers (docket entries 23, 25). There has been no discovery to date that can prove the lack of any genuine issue of material fact, and Plaintiff fails to set forth any dispositive facts that have been admitted by defendants. Moreover, PHS and Caulk have filed a motion to dismiss, which this Court has granted, and accordingly, summary judgment against them is moot. Therefore, Plaintiff is not entitled to summary judgment and his motion will be denied accordingly.

CONCLUSION

This Court concludes that Plaintiff's motion for summary judgment should be denied as moot against defendants PHS and Caulk, and because he is unable to demonstrate the absence of a genuine issue of material fact as to his allegations of constitutional violations by defendants. The Court will issue an appropriate Order.

s/ Mary L. Cooper
MARY L. COOPER
United States District Judge
United States District Court
District of New Jersey
Sitting by Designation

Dated: March 31, 2009

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v.	:	**O R D E R**
LEON KING II, ESQ., et al., Defendants.	:	

For the reasons set forth in this Court's Opinion, dated March 31, 2009;

IT IS THEREFORE on this 31st day of March, 2009;

ORDERED that Plaintiff's motion for summary judgment (docket entry 32) is **DENIED**, with prejudice.

s/ Mary L. Cooper
MARY L. COOPER
United States District Judge
United States District Court
District of New Jersey
Sitting by Designation