

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

PETER BISTRIAN,
Plaintiff,

v.

WARDEN TROY LEVI, et al.,
Defendants.

CIVIL ACTION NO. 08-3010

FILED

MAR - 6 2018

KATE BARKMAN, Clerk
By _____ Dep. Clerk

ORDER

AND NOW, this 6th day of March 2018, upon consideration of Defendants' Joint Motion for Summary Judgment [Doc. No. 197], the Motion to Dismiss for Lack of Jurisdiction and, in the Alternative, for Summary Judgment Filed by the United States [Doc. No. 198], the responses and replies thereto, and in accordance with the Memorandum Opinion issued this day, it is hereby **ORDERED** that:

1. Defendants' Joint Motion for Summary Judgment [Doc. No. 197] is **GRANTED IN PART AND DENIED IN PART** as follows:
 - a. Summary Judgment is **GRANTED IN PART AND DENIED IN PART** with respect to Count I (Fifth Amendment Substantive Due Process Failure to Protect). Summary Judgment is **GRANTED** with respect to Defendants Brown, Blackman, Garraway, Knox, and White regarding Plaintiff's claim that they failed to protect him from the Northington attack. Summary Judgement is **DENIED** with respect to the Defendants Bergos, Bowns, Gibbs, Jezior, Levi, McLaughlin, Robinson, and Rodgers on this claim. Summary Judgment is **GRANTED** with respect to the claim that Defendant Jezior was deliberately indifferent to Plaintiff's safety during the Northington attack.

- b. Summary Judgment is **GRANTED IN PART AND DENIED IN PART** with respect to Count III (Fifth Amendment Substantive Due Process Punitive Detention). Summary Judgment is **GRANTED** on this claim regarding Plaintiff's first and second periods of confinement in the SHU. Summary Judgment is **DENIED** with respect to only Defendants Jezior and Levi regarding Plaintiff's fourth period of confinement in the SHU.
 - c. Summary Judgment is **GRANTED** with respect to Count V (Fifth Amendment Procedural Due Process).
 - d. Summary Judgment is **DENIED** with respect to Count X (First Amendment Retaliation).
2. The Motion to Dismiss for Lack of Jurisdiction, and, in the Alternative, for Summary Judgment Filed by the United States [Doc. No. 198] is **GRANTED IN PART AND DENIED IN PART** as follows:
- a. Summary Judgment is **GRANTED** as to Count XV.
 - b. Summary Judgment is **DENIED** as to Count XVI as to the allegation that the prison officials were negligent in failing to collect the razor issued to Taylor.

BY THE COURT:


CYNTHIA M. RUFÉ, J.