

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

TYRONE SINGLETON,	:	Civil No. 1:13-cv-2711
	:	
Plaintiff,	:	
	:	
v.	:	
	:	Judge Sylvia H. Rambo
LAUREL HARRY, et al.,	:	
	:	Chief Magistrate Judge Schwab
Defendant.	:	

MEMORANDUM

Before the court is a report and recommendation filed by the magistrate judge (Doc. 40) in which she recommends that the defendants' motion for summary judgment be granted. The plaintiff, Tyrone Singleton, has filed objections. (Doc. 41.) For the reasons that follow, the report and recommendation will be adopted.

I. Background

Singleton commenced this Section 1983 action against three defendants – Laurel Harry, Scott Whalen and Lisa Peters, personnel of SCI-Camp Hill. Initially this court granted a motion to dismiss filed by defendants, but also granted Singleton leave to amend. An amended complaint (Doc. 19) was filed in which Singleton asserted claims of violations of the Eighth Amendment because of the length of his solitary confinement and a violation of his due process rights by continuing his detention without providing a hearing.

Upon review of a report and recommendation (Doc. 24), this court granted in part and denied in part the defendants' motion to dismiss. This court dismissed the Eight Amendment claim with prejudice but allowed the due process claim to proceed, citing an incomplete record. In the interim, the defendants supplemented the record, filed a motion for summary judgment, a statement of material facts, and a brief in support with supporting documents. (Docs. 33-35.) Singleton filed a response and a counterstatement of facts.¹ (Docs. 37-38.) Defendants replied. (Doc. 39.)

II. Discussion

The only claim remaining in this action is the due process claim against Whalen and Peters for continuing Singleton's confinement without arranging for a parole revocation hearing. The defendants contend that this claim is barred by the "favorable termination" rule set forth in *Heck v. Humphrey*, 512 U.S. 477 (1994). In *Heck*, the United States Supreme Court held that

in order to recover damages for allegedly unconstitutional conviction or imprisonment, or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid, a Section 1983 plaintiff must prove that the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such [a] determination, or called into question by a federal court's issuance of a writ of habeas corpus, 28 U.S.C. § 2254.

¹ Singleton has not responded paragraph by paragraph to all of the defendants' statement of material facts as required by Local Rule 56.1.

Id. at 486-87. This rule applies in the parole revocation context. *Williams v. Consovoy*, 453 F.3d 173, 177 (3d Cir. 2006).

Based on the affidavit of New York Department of Corrections and Community Supervision (“DCCS”) Bureau Chief Felix Rosa, the following is established:

New York received a notice on December 27, 2012, from the Pennsylvania Offender Violation Report reporting that Plaintiff had operated a vehicle while intoxicated which resulted in New York issuing a warrant (#621395) and lodging a detainer.² . . . On January 7, 2014, Plaintiff was sentenced for D.U.I. and reckless driving by the Cumberland County Court of Common Pleas. . . . On February 27, 2014 after conducting a parole revocation hearing . . . Plaintiff’s parole was revoked.

(Doc. 34-1, ¶¶ 6-9.) All of the above facts are supported by court documents from Cumberland County and the New York DCCS.

Because the records establish that Singleton’s parole was revoked and there is nothing in the record showing that the revocation was set aside or declared invalid, the magistrate judge opined that Singleton’s claim that he was denied a timely revocation hearing is barred by *Heck*.

In his objections, Singleton claims that his parole was never revoked. However, the documents attached to the Rosa affidavit reflect that after his revocation hearing, Singleton received a fourteen month sentence (*id.* at pp. 12-13)

² Singleton was a parolee from New York living in Pennsylvania and being supervised by the Pennsylvania Board of Probation and Parole.

and that, as of February 27, 2014, he was eligible to be reparaoled on March 14, 2014 (*id.* at p. 13; *see also id.* at p. 4, ¶ 9).

Based on the foregoing, the report and recommendation will be adopted.

s/Sylvia H. Rambo
SYLVIA H. RAMBO
United States District Judge

Dated: July 20, 2017