

United States District Court
Southern District of Texas

ENTERED

February 23, 2018

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

BOBBY RAY WILLIAMS,
TDCJ #1802766,

Plaintiff,

v.

SHIRLEY F. TAYLOR,

Defendant.

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CIVIL ACTION NO. H-17-3517

MEMORANDUM OPINION AND ORDER

The plaintiff, Bobby Ray Williams (TDCJ #1802766), has filed a Prisoner's Civil Rights Complaint under 42 U.S.C. § 1983 ("Complaint") (Docket Entry No. 1), concerning the conditions of his confinement in the Texas Department of Criminal Justice - Correctional Institutions Division ("TDCJ"). Because Williams is a prisoner who proceeds in forma pauperis, the court is required to scrutinize the claims and dismiss the Complaint, in whole or in part, if it determines that the Complaint "is frivolous, malicious, or fails to state a claim upon which relief may be granted" or "seeks monetary relief from a defendant who is immune from such relief." 28 U.S.C. §§ 1915(e)(2)(B), 1915A(b). After considering all of the pleadings, the court concludes that the Complaint should be dismissed for the reasons explained below.

I. Background

Williams is currently incarcerated at the Jester III Unit in Richmond.¹ He sues Shirley F. Taylor, who is employed by TDCJ as a correctional officer at the Jester III facility.²

Williams claims that on two successive days in February of 2017 Officer Taylor stopped him in the hall, searched him for contraband, and patted him on his "backside" while doing so.³ She also looked down his clothing.⁴ When Williams objected, Taylor reportedly laughed.⁵ Williams filed a grievance against Taylor, accusing her of touching him inappropriately for purposes of harassment and for making fun of him.⁶ An investigation determined that there was no evidence to support his allegations, and his grievances were denied.⁷

In his pending Complaint Williams contends that Taylor violated the Eighth Amendment by patting him down in a humiliating

¹Complaint, Docket Entry No. 1, p. 2.

²Id. at 2.

³Id. at 4.

⁴Id.

⁵Id. at 5.

⁶See Step One and Step Two Grievances (#2017100776), Docket Entry No. 1, pp. 9-12.

⁷See id. at 10, 12; see also Offender Notification Brochure, Docket Entry No. 1, p. 7.

manner.⁸ He seeks monetary damages under 42 U.S.C. § 1983 for the violation of his constitutional rights.⁹

II. Discussion

Williams alleges that he suffered mental anguish as a result of being searched on two occasions by a female correctional officer. It appears from the pleadings and attached grievances that the intrusion on Williams' person was minimal and that the only harm he suffered was embarrassment. Under these circumstances his Eighth Amendment claims fail as a matter of law because the Prison Litigation Reform Act, codified at 42 U.S.C. § 1997e(e),¹⁰ bars recovery of monetary damages for mental anguish absent a showing that the plaintiff suffered a physical injury while in custody. See Geiger v. Jowers, 404 F.3d 371, 374 (5th Cir. 2005) (holding that allegations of "mental anguish, emotional distress, psychological harm, and insomnia" are barred by § 1997e(e)). Absent an allegation that Williams suffered a physical injury in connection with the complained of incident, his claim for compensatory damages lacks an arguable basis in law and must be dismissed. See 28 U.S.C. § 1915(e)(2)(B); Geiger, 404 F.3d at 374.

⁸Complaint, Docket Entry No. 1, p. 5.

⁹Id.

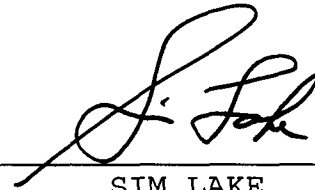
¹⁰42 U.S.C. § 1997e(e) states as follows: "No federal civil action may be brought by a prisoner confined to a jail, prison, or other correctional facility, for mental or emotional injury suffered while in custody without a prior showing of physical injury."

III. Conclusion and Order

Based on the foregoing, the court **ORDERS** that the Complaint filed by Bobby Ray Williams (Docket Entry No. 1) is **DISMISSED with prejudice** as legally frivolous.

The Clerk is directed to provide a copy of this Memorandum Opinion and Order to the plaintiff. The Clerk will also provide a copy by regular mail, facsimile transmission, or e-mail to: (1) the TDCJ - Office of the General Counsel, P.O. Box 13084, Austin, Texas 78711, Fax Number 512-936-2159; and (2) the Manager of the Three-Strikes List for the Southern District of Texas.

SIGNED at Houston, Texas, on this 23rd day of February, 2018.



SIM LAKE
UNITED STATES DISTRICT JUDGE