

United States District Court
for the Western District of Wisconsin

DOC NO
REG'D / FILED
2013 MAR 22 AM 9:54
JUDGE PETER OPPENHEIMER
CLERK US DIST COURT
WD OF WI

Christopher J. Hamlin,
Plaintiff.

v.

Captain Holmes, Lieutenant Wenzel,
C.O. II Burns, C.O. II Ross, C.O. II Moungey,
C.O. Bogutski, and C.O. Lobianco,
and John Doe,

Case No.:

13 C 0202

Defendants

Prisoner's Civil-Rights Complaint Under 42 U.S.C. §1983

Nature of the Case

This is a civil-rights action brought by a prisoner, *pro se* and with the assistance of jail-house lawyer Nate A. Lindell, alleging the violation of his Eighth Amendment right to be free from Cruel and Unusual Punishment, and his First Amendment liberties to Petition for Redress of Grievances & Free speech.

Jurisdiction

1. 28 U.S.C. §1331 and §1343 give this court jurisdiction over this case, as it seeks redress for the deprivation of a federal liberty under the color of state law.

Parties

2. The plaintiff, Christopher J. Hamlin ("Hamlin"), is a naturally born citizen of the U.S. of A, presently confined at the Waupun Correctional Institution ("W.C.I."), 200 S. Madison St., P.O. Box 351 Waupun, WI, 53963-0351.

3. The defendants are Captain Holmes (Cpt. Holmes), Lieutenant Wenzel (Lt. Wenzel), Correctional Officer II Burns (C.O. II Burns), C.O. II Ross, C.O. II Moungey, C.O. Bogutski, C.O. Lobianco, and John Doe (the supervisory official(s) at W.C.I. who knew of Lt. Wenzel's propensity for abusing prisoners prior to 1 January 2013, yet recklessly or deliberately took

no reasonable action to protect W.C.I. prisoners from Lt. Wenzel. All of the defendants may be located for service at 200 South Madison Street, Waupun, WI 53963-0351.

4. The defendants are sued in their individual capacities and acted under the color of law at all relevant times.

Facts Supporting Claims

5. On 1 January 2013, at approximately 12:30 P.M., while Hamlin was housed in cell F-28 of the south cell hall at W.C.I., Lt. Wenzel appeared at Hamlin's cell and told Hamlin that Hamlin was being placed in Temporary Lock-Up (T.L.U.) status on A-range of W.C.I.'s segregation unit.

6. Hamlin told Lt. Wenzel that he, Hamlin, needed five minutes to pack his property. After said five minutes elapsed, Hamlin went to his cell's door, handed Lt. Wenzel a sealed, postage-stamped card addressed to Hamlin's grandma, asking Lt. Wenzel to ensure it was mailed out, which Lt. Wenzel assured Hamlin would be done. However, the card was not mailed, but given to Cpt. Holmes, who, subsequently, informed Hamlin that it had been destroyed and that Cpt. Holmes allowed or ensured this to happen because Hamlin was in prison and in segregation, thus deserved punishment. The card was a beautiful, unique piece of art.

7. When Hamlin went to his cell's door, he stuck his wrists out of an opening, behind his back, so the defendants could handcuff him. At that time Lt. Wenzel falsely claimed that Hamlin was pulling away from C.O. Bogutski, the guard who was placing handcuffs on Hamlin.

8. Due to Lt. Wenzel's forenoted lie, C.O. Bogutski forcefully grabbed Hamlin's left wrist and cuffed it to Hamlin's already cuffed right wrist. Then C.O. Bogutski radioed for other staff to open the door. Once the cell-door was opened, C.O. Bogutski patted Hamlin down. At that time, Lt. Wenzel told C.O. Bogutski and the other staff who were present (i.e. C.O.s Lieber and Heinke), "We're gonna take him down the back stairs!"

9. The backstairs referred to by Lt. Wenzel were not monitored by video cameras, nor could other staff nor other prisoners view that area, unlike the front stairs that led from cell F-28 to the unit's exit/entrance.

10. There was no legitimate reason for Lt. Wenzel to take Hamlin

down the forenoted backstairs.

11. On the way towards the back stairs, Hamlin said something to a prisoner in another cell, to which Lt. Wenzel stated, "Stop acting like a child."

12. When Hamlin and the forenoted defendants were halfway down the back stairs, Lt. Wenzel said, "Hold him at the bottom!" which kept Hamlin out of sight of other staff and other prisoners, as well as out of the camera's view.

13. At that point, Lt. Wenzel removed some pens that Hamlin had in Hamlin's waistband, asking Hamlin, "What's that?" Lt. Wenzel falsely reported that Hamlin replied, "My dick."

14. Hamlin had and has no history nor habit of sexually acting out nor of sexually speaking out nor of being rude nor aggressive towards staff. Hamlin's actual reply to Lt. Wenzel's forenoted question was, "What do you think they are?"

15. Lt. Wenzel put his ^{right} hand on Hamlin's neck after having removed the pens, pushing against Hamlin's throat, saying, "You need to stop acting like a child."

16. Hamlin told the Lt. to remove his hand from Hamlin's neck, to which the Lt. responded by gripping the back of Hamlin's neck (Hamlin was ~~several inches shorter~~ and at least 70 pounds lighter than Lt. Wenzel), pushing Hamlin face first against the wall that was behind Hamlin, causing Hamlin's bottom left lip to split open and chipping Hamlin's bottom left cuspid/canine tooth, resulting in pain and sensitivity to hot and cold temperatures on Hamlin's lip and tooth for more than a week.

The Lt. then yelled, "Take him down!" resulting in C.O. Bogutski and C.O. ^{COS. BOGUTSKI} LIEBER ^{CO. BOGUTSKI} slamming Hamlin to the concrete floor, resulting in Hamlin's chin painfully banging the floor.

17. Lt. Wenzel then knelt onto/into Hamlin's right arm, just above the elbow joint, with what felt to Hamlin like all of the Lt's weight, which was around 230 pounds or more. Hamlin cried, "You're going to break my arm!", to which the Lt. replied, "I don't care."

18. ^{CO. BOGUTSKI} WENZEL stated into his radio the code for an altercation between a prisoner and staff, resulting in other C.O.s arriving on the scene.

19. When other staff arrived, Lt. Wenzel told them to retrieve shackles for Hamlin's legs, but said, "Take your time." It seemed to Hamlin that it took at least 10 minutes for staff to return with shackles.

20. While responding staff were absent, the Lt. ground one of his knees into Hamlin's back and the other into the spot above Hamlin's elbow, and said, "This is what happens when you act like a child," in a cruel tone.

20. Hamlin begged the Lt., "Please get off my arm. It really hurts!" repeatedly. But Lt. Wenzel did not ease his pressure, even though Hamlin was scrawny and never resisted in any way.

21. Hamlin began to have a panic attack and told the Lt. "I'm unable to breath! I have bad panic attacks and am having one now. Please stop crowding my head!" But the Lt. and other staff (two C.O.s) immobilizing Hamlin's body refused Hamlin's request and never arranged for psychological staff to help Hamlin. Hamlin had trouble breathing and panicked.

22. After staff arrived and put shackles on Hamlin's ankles, he was walked to W.C.I.'s seg unit by the Lt. and other guards. When they were about to enter the seg unit, Lt. Wenzel stated, "How do you feel about going into control status?" in a cruel tone. to which Hamlin replied, "I don't know what that is sir." Lt. Wenzel said, "GH". NOW I'M A SIR. & TOLD SOMEONE TO PR.

23. Hamlin was brought into the seg. unit, over in front of a strip cage, which was monitored by a security camera. Lt. Wenzel told Hamlin, "Kneel down!" which Hamlin did. The Lt. then pulled out a tazer, put it in front of Hamlin's face, turned it on, showing Hamlin the electrical arc, then said, "If you move, I'll use this on you."

24. At that point C.O. II Ross was tightly holding Hamlin's left wrist while C.O. II Burns tightly held Hamlin's right wrist, and one guard, unidentifiable by Hamlin (because Hamlin was too scared to move his eyes) apparently stood on the chain between the shackles on Hamlin's ankles, causing the sharp edges of the shackles to painfully dig into Hamlin's ankles. C.O. II Ross and C.O. II Burns each were hyperextending the wrists of Hamlin's for the arms they held, causing the sharp edges of the handcuffs to painfully bite into the flesh of Hamlin's wrists.

While this was going on, C.O. Lobbiano told Hamlin, "I'm performing a staff-assisted strip search," then cut off Hamlin's clothing, lifted up Hamlin's

penis, spread Hamlin's buttocks, felt around Hamlin's anus, using Lobranco's hands to do so. ^{VERY AGGRESSIVE. PAWFULLY SQUEEZING HIS GROINING & TRIED TO PUSH HIS THUMB IN HIS ASS}

25. At no time did any detainee ask Hamblin if Hamblin would cooperate with a regular strip search.

26. It is a common, sadistic practice of W.C.I. staff to use the sharp edges of handcuffs and shackles to injure prisoners and to perform "staff-assisted" strip searches on prisoners in order to degrade and humiliate them. In fact, on 29 December 2012, Lt. Wenzel supervised a practically identical situation, where W.C.I. prisoner Dewayne Knight #476347 was first assaulted by C.O. II Beahm, had handcuffs ligating his wrists, then was shackled and ligated with the shackles, threatened by Lt. Wenzel with a tazer, then stripped and molested by C.O. II Burns.

27. Nurse De May took pictures of and/or noted the injuries to Hamlin's lip and tooth. No psychological or physical care was given for Hamlin's injuries and problems.

28. Lt. Wenzel falsely noted in Conduct Report (C.R.) #2342165 that Hamlin "lunged" at the Lt and thereby precipitated the Lt's assault and battery of Hamlin. Based on that lie, the Lt had Hamlin placed in control seg. status.

29. Wisconsin Administrative Code (W.A.C.) § DOC 303.71 Controlled segregation, at sub. (2), states

CONDITIONS. The institution shall provide inmates in controlled segregation the following: clean mattress... and adequate ventilation and heating

and, at sub. (3), states

NECESSITIES. The institution shall provide the following for each inmate in controlled segregation: adequate clothing, essential hygiene supplies, and nutritionally adequate meals.

30. While Hamblin, who was diagnosed with an Anxiety Disorder, was kept in controlled seg. status, he was kept in cell A-202, without any clothing, in a very cold cell, with only a vulcanized rubber mat (as hard as concrete), and no soap, no sheets, no blankets, no soap, no toothbrush, and fed only a disgusting looking and tasting "seg loaf."

31. Numerous other W.C.I. prisoners had filed complaints about the

severe inadequacy of the heating in the cells on A-wing, where Hamlin's cell was located. Seg prisoners were allowed an extra pair of socks to protect their feet from the cold in their cells, except for Hamlin. The cell he was in was contaminated with feces and urine.

32. While in cell A-202, Hamlin quickly began to psychologically decompensate from the painful, miserable situation he found himself in. He begged C.O. II Moungey and Sgt. Waller for clothing and soap, but they each told Hamlin that he would not be given any clothing and the status might last up to three days. This caused Hamlin to panic and desperately plot to get out of that status by eating the black vulcanized-rubber mat to hurt himself and make staff take him to a hospital, which Hamlin began to do.

33. Hamlin was still not provided any psychological care. Instead Lt. Larson threatened to gas Hamlin if Hamlin didn't allow staff to remove the rubber mat, so Hamlin complied. But Lt. Larson told Hamlin that he'd give Hamlin some clothing at 10 P.M. if Hamlin behaved.

34. C.O. II Moungey falsely stated in a log sheet that Hamlin referred to Lt. Larson as a "bitch" and profanely demanded his clothing, which resulted in Lt. Larson declining to give Hamlin any clothing at 10 P.M.

35. Finally, around 12 A.M., Hamlin was given clothing and a blanket.

36. When Hamlin learned that the card to his grandma had been given to Cpt. Holmes, Hamlin wrote to the Cpt, asking about the card, to which the Cpt. replied in writing:

I don't care where your card is. Your actions placed you in prison & seg where you are today. Take a good look at yourself. I think your card is the last of your worries.

General Allegations

37. All of the defendants acted as an organized, corrupt group of sadists, with total contempt for Hamlin's rights and the contemporary standards of decency, and will do so again, in fact continuously do so, until adequately deterred from doing so.

38. Prior to 1 January 2013, John Doe, supervisory officials at W.C.I., knew of Lt. Wenzel's propensity for using excessive force

on and sexually degrading prisoners via "staff-assisted" strip searches, yet refused to take adequate action to protect W.C.I. prisoners, including Hamlin, from Lt. Wenzel.

39. W.A.C. § DOC 306.04 Responsibility of employees states:

Every employee of the department is responsible for the safe custody of the inmates confined in the institutions.

40. W.A.C. § DOC 306.17 Search of inmates, at sub. (5) states STAFF CONDUCT.

(a) Staff shall strive to preserve the dignity of inmates in all searches conducted under this section.

Causes of Action

41. By the forenamed defendants causing Hamlin to be slammed into a wall and then a floor, subjected to intense pain in his arm and shoulder, caused to have a panic attack, be sexually assaulted, in response to Hamlin's request for one of them to remove his hand from Hamlin's neck, prevented from mailing a unique card to his grandmother, then placed in a freezing, filthy cell with nothing but a rubber mat, and kept in there for two extra hours, deprived of adequate physical and mental health care, the defendants deprived Hamlin of his First and Eighth Amendment rights to Free Speech, to Petition for Redress of Grievances, and to be Free from Cruel and Unusual Punishment.

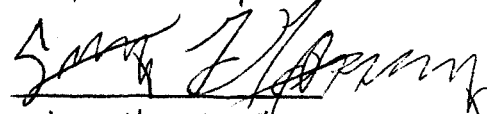
Relief Sought

42. Hamlin seeks compensatory and punitive damages and any and all other just relief, including attorney fees and his litigation costs.

Verification

Hamlin has read the foregoing and declares under penalty of perjury that, based on his personal knowledge, it's all true, truthful, and correct.

Executed on _____ day of _____, 2013


Chris Hamlin #507328
W.C.I., P.O. Box 351
Waupun, WI 53963-0351

