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

Richmond Division

MONTIE R. RISSELL,)
)
 Plaintiff,)
)
 v.) CIVIL ACTION NO. 82-0139-R
)
 JAMES P. MITCHELL, et al.,)
)
 Defendants.)

MEMORANDUM OPINION

Plaintiff Montie R. Rissell is an inmate at the Mecklenburg Correctional Center. He has filed a section 1983 action against five officials at the Virginia State Penitentiary. See 42 U.S.C. § 1983 (1976). The plaintiff seeks to recover damages for mental stress. This stress allegedly resulted from the defendants' failure to return an item of Rissell's property promptly. The defendants move to dismiss the complaint for failure to state a cognizable section 1983 claim. See Fed. R. Civ. P. 12(b)(6). They request summary judgment in the alternative. See id. 56(d).

In February, 1981, prison officials confiscated Rissell's cassette player from the cell of inmate F. West. By April, 1981, the plaintiff had submitted a formal grievance requesting return of the player. Prison officials, however, refused to return it at that time, because West was claiming it as his property in a pending state-court case. The state court dismissed West's suit on November 6, 1981. The penitentiary officials still failed to return the player to Rissell after the termination of this litigation.

On February 25, 1982, Rissell filed a section 1983 action in this court seeking return of the cassette player and emotional damages. On March 16, 1982, prison officials returned the player to the plaintiff. The defendants then filed a motion for summary judgment on the ground that Rissell's action was moot. The plaintiff responded by pressing

his claim for emotional damages. Finally, the defendants moved to dismiss the complaint for failure to state a valid section 1983 claim.

The court grants the defendants' motion to dismiss. Rissell's complaint does not implicate any substantive constitutional guarantees. His claim essentially is that the defendants denied him procedural due process. The official misconduct for which Rissell seeks redress was an isolated action in violation of state procedure. The due process clause, therefore, requires only a meaningful postdeprivation remedy. See Parratt v. Taylor, 451 U.S. 527, 541 (1981); Irshad v. Spann, Civil No. 81-0456-R, slip op. at 5-6 (E.D. Va. July 19, 1982). Virginia law provides such a remedy in the form of a common-law action for conversion or detinue. See id. at 6-9. Thus, the plaintiff's due process rights have not been violated.

For these reasons, the court holds that Rissell's emotional damages claim is not cognizable under section 1983. The court, therefore, must dismiss his action.

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UNITED STATES DISTRICT JUDGE

Date: _____