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

Alexandria Division

THOMAS WALTERS, JR.,)	
)	
Plaintiff,)	
)	
)	
v.)	Civil Action No. 82-0685-AM
)	
W. P. ROGERS,)	
)	
)	
Defendant.)	

MEMORANDUM OPINION

I. Factual Background

Plaintiff Thomas Walters, Jr. is an inmate at the Powhatan Correctional Center. He has filed a section 1983 action against Assistant Warden W. P. Rogers. See 42 U.S.C. § 1983. The plaintiff seeks to recover monetary damages for an alleged violation of the eighth amendment and other unspecified violations of his constitutional rights under section 1983. He also requests that a declaratory judgment be entered to the effect that defendant's acts and policies are in contravention of plaintiff's constitutional rights. The actions complained of occurred as a result of an emergency lockdown at the prison on June 3 and 9, 1982. Defendant Rogers moves to dismiss the complaint under Federal Rule of Civil Procedure 56.

Prior to the emergency lockdown, Walters had secured permission from Warden Gene Johnson to have a picnic with his family on June 6. Subsequent events however, led to a withdrawal of the permission by Assistant Warden Rogers. According to Rogers, the inmates at the Virginia State Penitentiary conducted a work stoppage on June 1, 1982 to show their disapproval over a new Prison Guideline. Rumors began that the inmates at Powhatan were going to join the work stoppage in a show of approval of the Virginia State Penitentiary prisoners. As expected, on June 3 a majority of inmates assigned to food service duties failed to report to work. As a result, officers and staff members of the

prison had to fill the positions. For security reasons, a list was made of those inmates who did and did not report to work. Those who did not report had their phone calls, visitation and commissary privileges temporarily suspended. Plaintiff is a worker in the prison barber shop. He did not report to work on the third, nor did he notify the administration as to the reasons for his failure to report. His privileges were suspended in accordance with the established emergency policy. Plaintiff states that he could not report to work because his supervisor was not there to open up the shop. Because of the suspension of his privileges, plaintiff was unable to have his picnic or to call his family to cancel the plans. This, he alleges, deprived him of his constitutional rights and caused him emotional distress amounting to cruel and unusual punishment in violation of the eight amendment.

II. Legal Analysis

It is well recognized that the State has a compelling interest in assuring the security of the prisons. If the security is put in jeopardy, especially by the prisoners' own actions, the rights and privileges usually granted to the prisoners must yield. The Supreme Court stated in Bell v. Wolfish, 441 U.S. 520 (1979), that prison administrators should be accorded wide-ranging deference in the adoption and execution of policies designed to preserve prison security and stability. 441 U.S. 520, 562-563.

Using Bell, supra, as guidance, this Court finds that the Warden and Assistant Warden of Powhatan acted within the bounds of discretion afforded them and did not violate Walters' constitutional rights by temporarily suspending privileges. The prison officials found themselves in the middle of an emergency lockdown and a situation which had the potential of developing into a crisis. Many of the staff members were away from their usual posts in order that the mess hall remain open and all of

the prisoners fed. The primary goal of the administrators was to maintain control and prevent any outbreak of violence or threat to security as a whole. The officials initiated an emergency policy and it is unfortunate that the plaintiff did not report to work on the day in question. The actions of the Assistant Warden however, were not an abuse of discretion and this court defers to the security judgments of the prison officials in such emergency situations. There does not appear to be any material facts in issue and hence this is a proper case for summary judgment.

Let the Clerk of the Court send a copy of this Memorandum Opinion and the attached Order to plaintiff and to counsel for the defendant.

DATE: Dec. 1, 1982

Richard L. Williams
UNITED STATE DISTRICT JUDGE

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ORDER

This matter is before the court on defendant's motion for summary judgment under Fed. R. Civ. P. 56. For the reasons stated in the accompanying Memorandum Opinion, the motion for summary judgment is GRANTED, accordingly, the plaintiff's case is DISMISSED.

Let the Clerk send a copy of this Order and the accompanying Memorandum Opinion to the plaintiff and to counsel for the defendant.

DATE: Dec. 1, 1982

Richard L. Williams
UNITED STATES DISTRICT JUDGE