

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

NO. 05-5058

ABDUL NEDAB,

Appellant

v.

BARBARA LITTEN

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On Appeal From the United States District Court  
For the Western District of Pennsylvania  
(D.C. Civ. No. 05-cv-00221E)  
District Judge: Honorable Sean J. McLaughlin

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Submitted Under Third Circuit L.A.R. 27.4 and I.O.P. 10.6  
March 23, 2006

Before: FUENTES, VANANTWERPEN and ROTH\*, Circuit Judges

(Filed June 19, 2006)

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OPINION

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PER CURIAM

Appellant Abdul Nedab appeals from a District Court order dismissing his case as “legally frivolous in accordance with 28 U.S.C. § 1915(d).”\*\* The Appellee has filed a

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\* Judge Roth assumed senior status on May 31, 2006.

\*\* We assume that the District Court intended to cite 28 U.S.C. § 1915(e).

motion for summary action. Because no substantial question is presented, we will grant the Appellee's motion and summarily affirm. L.A.R. 27.4.

In his complaint, Nedab alleges that several guards at SCI-Forest, along with a local officer, beat him on March 3, 2005, injuring him severely.\*\*\* He claims that the incident was recorded on the prison's video system. He seeks monetary, declaratory, and injunctive relief against the Tionesta District Attorney, Barbara Litten, on the grounds that she failed to investigate his private criminal complaint against the guards, and that she failed to bring criminal charges against them. Adopting a Magistrate Judge's report and recommendation, the District Court dismissed the complaint holding that Litten's activities are intimately associated with the judicial phase of the criminal process and, thus, receive absolute immunity. This appeal followed.\*\*\*\*

We agree with the District Court that Litten is entitled to absolute immunity for all claims related to her decision not to prosecute. Imbler v. Pachtman, 424 U.S. 409, 420 (1976). To the extent that Nedab's complaint can be read to allege violations connected to investigatory or administrative functions, he cannot maintain a section 1983 suit because the facts of his complaint do not demonstrate that any constitutional right has

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\*\*\* In the past year, Nedab has filed several lawsuits in the District Court for the Western District of Pennsylvania, all relating in part to the alleged beating. See Nedab v. Neal, Civ. No. 06-cv-00007 (W.D. Pa.); Nedab v. Lencer, Civ. No. 06-cv-00054 (W.D. Pa.); Nedab v. Beard, Civ. No. 05-cv-00405 (W.D. Pa.); and Nedab v. Beard, Civ. No. 06-cv-00035 (W.D. Pa.) (naming well over 100 defendants).

\*\*\*\* We have jurisdiction under 28 U.S.C. § 1291, and exercise plenary review. See Tourscher v. McCullough, 184 F.3d 236, 240 (3d Cir. 1999).

been violated. See Saucier v. Katz, 533 U.S. 194, 201 (2001); Wright v. City of Phila., 409 F.3d 595, 599-600 (3d Cir. 2005).”