

UNREPORTED- NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 03-1201

ROBERT SAUNDERS,

Appellant

v.

STANLEY TAYLOR, Commissioner; PAUL HOWARD;
RICK KEARNEY, Warden; MIKE DELOY, Deputy Warden;
PAT DITTO; LARRY LILLY, Chaplain; RANDY PARKER;
DIANE PLUMMER

On Appeal From the United States District Court
For the District of Delaware
(D.C. Civ. No. 01-CV-00195)
District Judge: Honorable Kent Jordan

Submitted Under Third Circuit LAR 34.1(a)
January 5, 2004

Before: ALITO, McKEE and COWEN, Circuit Judges

(Filed January 16, 2004)

OPINION

PER CURIAM

Robert Saunders, a prisoner at Sussex Correctional Institution in Delaware, appeals

from an order of the United States District Court for the District of Delaware, which granted the defendants' motion for summary judgment. Saunders also challenges the District Court's decision denying his motion for appointment of counsel. We will affirm.

Saunders' complaint alleged that his removal from his position as inmate law clerk at the SCI law library violated his Eighth and Fourteenth Amendment rights. Saunders was removed from his position when another inmate clerk "exhibited inappropriate behavior toward defendant Diane Plummer," SCI's Paralegal II. Saunders alleged that his own removal, when he was not accused of any wrongdoing, constituted cruel and unusual punishment, and that prison officials discriminated against him on the basis of race and religion. Saunders also alleged that prison officials discriminated against him when they failed to give him a position as Muslim inmate chapel clerk, and when they failed to allow Muslim inmates to celebrate the Feast of Abraham on March 16, 2000. Defendants filed a motion for summary judgment, which the District Court granted. This timely appeal followed.

This Court has jurisdiction pursuant to 28 U.S.C. § 1291. We exercise plenary review over an order granting summary judgment, and apply the same standard that the trial court should have applied. Showalter v. University of Pittsburgh Medical Center, 190 F.3d 231, 234 (3d Cir. 1999). A federal court should grant summary judgment "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that

the moving party is entitled to a judgment as a matter of law.” Fed. R. Civ. P. 56(d). In making this determination, “a court must view the facts in the light most favorable to the nonmoving party and draw all inferences in that party’s favor.” Showalter, 190 F.3d at 234.

The District Court properly found that depriving Saunders of his prison employment did not constitute “cruel and unusual punishment.” The Eighth Amendment imposes duties on prison officials, “who must provide humane conditions of confinement; prison officials must ensure that inmates receive adequate food, clothing, shelter, and medical care, and must take reasonable measures to guarantee the safety of the inmates.” Farmer v. Brennan, 511 U.S. 825, 832 (1994) (internal quotation and citation omitted). Saunders’ complaint does not implicate any of these duties. Further, his due process claim could not succeed as he has no protected liberty interest in prison employment. Sandin v. Conner, 515 U.S. 472, 483-84 (1995).

Saunders bases his equal protection claim on the fact that he was denied employment in the prison chapel after he was removed from the library position. Saunders alleged that he was denied the job because he was a Muslim. We have recognized that “there is no general right of prison officials to discriminate against prisoners on grounds of race, sex, religion, and so forth.” Yeskey v. Com. of Pa. Dept. of Corrections, 118 F.3d 168, 174 (3d Cir. 1997) (quoting Crawford v. Indiana Department of Corrections, 115 F.3d 481, 486 (7th Cir.1997)). However, to prevail on an equal

protection claim, an inmate must show that he has been treated differently from other similarly situated inmates. Williams v. Morton, 343 F.3d 212, 221 (3d Cir. 2003). Furthermore, he must show that the defendant acted with discriminatory intent or purpose. City of Cuyahoga Falls, Ohio v. Buckeye Community Hope Foundation, 538 U.S. 188, __; 123 S. Ct. 1389, 1394 (2003). Here, defendants presented evidence in the District Court to show that Saunders was considered for the inmate chapel clerk position, but was not hired because of his poor clerical skills. As Saunders was not qualified for the position, he cannot show that defendants acted with discriminatory intent.

Saunders' claim that inmates were not allowed to celebrate the Feast of Abraham also fails, as the prison gave Muslim inmates approval to celebrate, conditioned upon submission of a list of attendees. The inmates failed to submit the list, and the celebration was cancelled. An alleged restriction of an inmate's right to free exercise of religion will be upheld "if it is reasonably related to legitimate penological interests," O'Lone v. Shabazz, 482 U.S. 342, 349 (1987). In making this determination, a court must weigh four factors; namely: (1) whether the regulation is rationally related to a valid penological interest; (2) whether the inmate has an alternative means by which to exercise his asserted rights; (3) what impact accommodation of the asserted rights will have on prison guards, other inmates, and the allocation of prison resources; and (4) whether an alternative to the regulation exists. Turner v. Safley, 482 U.S. 78, 89-91 (1987). Defendants' statement that the list of attendees was required for safety and security reasons indicates that the

requirement was “reasonably related to valid penological interests.” The inmates had the means to celebrate the religious festival; the prison required only that they submit a list of attendees. The impact of having to submit one’s name in a prison setting is de minimus. We agree with the District Court that the prison’s decision comported with constitutional requirements.

For the foregoing reasons, and those discussed by the District Court, we will affirm.¹

¹ We also hold that the District Court properly denied Saunders’ motion for appointment of counsel. Even if the Court were to find that the complaint met the threshold of having arguable merit in fact and law, the legal issues involved were not particularly difficult, and Saunders is experienced in litigation. Tabron v. Grace, 6 F.3d 147, 155-56 (3d Cir. 1993).

TO THE CLERK:

Please file the foregoing opinion.

