Appendix

Appendix A: The Opinion of the United States District Court for the Southern District of Florida.

Appendix B: The Opinion of the United States Court of Appeals in and for the Eleventh Circuit.

Appendix C: A copy of the Order denying the Petitioner's Rehearing.

Appendix A

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

JOHNSON CHRISTOPHER JAMERSON,

Plaintiff,

v. **Case No: 6:16-cv-1283-Orl-41DAB**

JULIE JONES, BENJAMIN T WAPPLER and CAPTAIN GODDARD,

Defendants.
_____/

ORDER

THIS CAUSE is before the Court on initial review of Plaintiff's Civil Rights Complaint ("Complaint," Doc. 1). Plaintiff, who is a prisoner incarcerated at the Tomoka Correctional Institution ("Tomoka") and proceeding *pro se*, filed the Complaint pursuant to 42 U.S.C. § 1983. For the reasons stated herein, the Complaint will be dismissed for failure to state a claim.

I. LEGAL STANDARD

Plaintiff seeks redress from a governmental entity or employee, and, pursuant to 28 U.S.C. § 1915A(a), the Court is obligated to screen such a prisoner civil rights complaint as soon as practicable. On review, the Court is required to dismiss the complaint (or any portion thereof) under the following circumstances:

> (b) Grounds for Dismissal.--On review, the court shall identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint--
>
> (1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or
>
> (2) seeks monetary relief from a defendant who is immune from such relief.

28 U.S.C. § 1915A(b); *see also* 28 U.S.C. § 1915(e)(2)(B)(i) ("[n]otwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that . . . the action or appeal . . . is frivolous or malicious.").[1] Additionally, the Court must read a plaintiff's *pro se* allegations liberally. *Haines v. Kerner*, 404 U.S. 519 (1972).

"To establish a claim under 42 U.S.C. § 1983, a plaintiff must prove (1) a violation of a constitutional right, and (2) that the alleged violation was committed by a person acting under color of state law." *Holmes v. Crosby*, 418 F.3d 1256, 1258 (11th Cir. 2005).

II. ANALYSIS

The Complaint alleges violations of Plaintiff's Fourteenth Amendment rights in connection with his placement in administrative confinement. (Doc. 1 at 4). Plaintiff states that, on December 29, 2015, he was in the prison law library doing legal research on behalf of Bruce Webber, an inmate at Tomoka. *Id.* at 16. Plaintiff alleges that he and Gerry Parker, another inmate at Tomoka, got into an argument and that Defendant Benjamin T. Wappler, the prison librarian, "got on his radio and called for security stating that he had an inmate in the library that was being disorderly." (*Id.* at 6-7).

According to Plaintiff, Defendant Captain Goddard came upon the scene and found Plaintiff "to be a threat to the security of the institution." (*Id.* at 7). Plaintiff states he was then handcuffed, placed in administrative confinement, and "served the Disciplinary Report on January 6, 2016." (*Id.* at 8). A disciplinary hearing was held on January 7, 2016, and the "Disciplinary Team dismissed the charges . . . ." (*Id.* at 8). Although not clearly delineated, it appears that

[1] "A claim is frivolous if it is without arguable merit either in law or in fact." *Bilal v. Driver*, 251 F.3d 1346, 1349 (11th Cir. 2001).

Plaintiff was released from administrative confinement upon dismissal of the charges. He seeks punitive damages, compensatory damages, and the "release of inmate James Brown #K73594 and himself, simultaneously." (*Id.* at 10).

Florida law permits prison officials to place inmates in administrative confinement for the purpose of control and supervision. *Chandler v. Baird*, 926 F.2d 1057, 1060 (11th Cir. 1991). Here, Plaintiff states that Defendant Goddard placed him in administrative confinement because he was a threat to the prison's security. However, Plaintiff was accorded procedural due process, in the form of a disciplinary hearing, which occurred shortly after he was placed in administrative confinement.

Further, being held in administrative confinement for eight days does not impose an "atypical, significant deprivation" sufficient to give rise to a constitutionally protected liberty interest. See *Matthews v. Moss*, 506 F. App'x 981, 983 (11th Cir. 2013) (citing *Sandin v. Conner*, 515 U.S. 472, 485–87 (1995) (concluding that thirty days of disciplinary segregation did not give rise to a protected liberty interest). In addition, the Complaint does not allege any facts demonstrating that Plaintiff was confined in harsher conditions than other inmates in administrative confinement or close management status generally. *See Mathews*, 506 F. App'x at 984 (noting that the complaint "did not allege any facts showing (or that could be liberally construed to show) that [the plaintiff] was confined in harsher conditions than inmates in administrative confinement or close management I status generally").

Finally, Plaintiff has failed to allege any causal connection between any constitutional deprivation and the actions or omissions of Defendant Wappler and Defendant Julie Jones.[2] As a result, this case is dismissed for failure to state a claim.

III. CONCLUSION

In consideration of the foregoing, it is **ORDERED** and **ADJUDGED** that this case is **DISMISSED with prejudice**. This Clerk is directed to close this case and to enter judgment in favor of Defendants.

DONE and **ORDERED** in Orlando, Florida on July 25, 2016.

CARLOS E. MENDOZA
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Unrepresented Party

[2] Jones is the Secretary of the Florida Department of Corrections.

Appendix B

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 16-15422
Non-Argument Calendar

D.C. Docket No. 6:16-cv-01283-CEM-DAB

JOHNSON CHRISTOPHER JAMERSON,

Plaintiff - Appellant,

versus

SECRETARY, DEPARTMENT OF CORRECTIONS,
BENJAMIN T. WAPPLER,
Librarian, Tomoka Correctional Institution,
CAPTAIN GODDARD,
Captain of Security, Tomoka Correctional Institution,

Defendants - Appellees.

Appeal from the United States District Court
for the Middle District of Florida

(October 2, 2017)

Before TJOFLAT, HULL, and WILSON, Circuit Judges.

PER CURIAM:

Johnson Jamerson, a Florida inmate proceeding *pro se*, appeals the District Court's dismissal of his complaint for failure to state a claim. He based his action on 42 U.S.C. § 1983, alleging due process and equal protection violations. Jamerson also challenged the constitutionality of a Florida regulation that authorizes administrative confinement of prisoners who threaten prison security. On appeal, Jamerson only challenges the dismissal of his challenge to the regulation.

This appeal arises from a dispute outside a prison law library. Jamerson had a dispute with other inmates in the library. The prison librarian, Benjamin Wappler, called security to report a disorderly inmate. Jamerson claims that he voluntarily left the library and waited for the security staff to arrive. When security arrived, Jamerson attempted to explain the dispute to security personnel. However, the security personnel decided that Jamerson threatened prison security. Thus, Jamerson was placed into administrative confinement. He was released following a disciplinary hearing nine days later, where the charges against him were dropped.

We review a dismissal for failure to state a claim *de novo*, and accept the allegations in the complaint as true and view them in the light most favorable to the

plaintiff. *Hill v. White*, 321 F.3d 1334, 1335 (11th Cir. 2003). We liberally construe *pro se* pleadings and hold such pleadings to a less stringent standard than pleadings drafted by attorneys. *Tannenbaum v. United States*, 148 F.3d 1262, 1263 (11th Cir. 1998). Appellants must clearly and specifically identify issues in their brief, or they waive them. *Sapuppo v. Allstate Floridian Ins. Co.*, 739 F.3d 678, 680 (11th Cir. 2014) (citations omitted).

To withstand a motion to dismiss for failure to state a claim, plaintiffs must establish the grounds for relief. *Ashcroft v. Iqbal*, 556 U.S. 662, 677–78 (2009); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). Plaintiffs suing under 42 U.S.C. § 1983 must show that a person deprived him or her of a right while acting under the color of state law. *Griffin v. City of Opa-Locka*, 261 F.3d 1295, 1303 (11th Cir. 2001).

Section 1983 actions require proof of three elements: (1) deprivation of a constitutionally protected liberty or property interest, (2) state action, and (3) constitutionally inadequate process. *Cryder v. Oxendine*, 24 F.3d 175, 177 (11th Cir. 1994). We recognize two situations in which prisoners require due process before being deprived of a liberty interest. *See Kirby v. Siegelman*, 195 F.3d 1285, 1290–91 (11th Cir. 1999). First, prisoners must receive due process when a change in the condition of confinement "is so severe that it essentially exceeds the sentence imposed by the court." *Id.* at 1291. Second, prisoners have a liberty

interest where the state has consistently provided a benefit to a prisoner and deprivation of that benefit imposes an "atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life." *Id.* (quotation omitted).

The Supreme Court has held that "discipline in segregated confinement did not present the type of atypical, significant deprivation in which a State might conceivably create a liberty interest." *Sandin v. Conner*, 515 U.S. 472, 486 (1995). It reasoned that discipline in segregated confinement mirrored the conditions imposed on other inmates, "with significant exceptions." *Id.* We have held that disciplinary sanction for two months of administrative confinement did not implicate a protected liberty interest. *See Rodgers v. Singletary*, 142 F.3d 1252, 1252–53 (11th Cir. 1998).

The Florida Administrative Code states that an inmate may be placed in administrative confinement when "disciplinary charges are pending and the inmate needs to be temporarily removed from the general inmate population . . . to provide for security or safety until such time as a disciplinary hearing is held." Fla. Admin. Code Ann. R. 33-602.220(3)(a).

Here, Jamerson failed to argue on appeal that the District Court erred in dismissing his claim that he did not receive due process and equal protection. He has abandoned those claims and we decline to consider them. *See Sapuppo*, 739 F.3d at 680. Regarding his argument that Florida Administrative Code Chapter 33-

602.220(3)(a) violates due process, Jamerson has not shown, nor could he, that the regulation authorizes atypical or significant deprivation, or that the process provided in the regulation is constitutionally inadequate. After all, Jamerson received a disciplinary hearing nine days after the incident and prison officials released him from administrative confinement following that hearing.

AFFIRMED.

Appendix C

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 16-15422-CC

JOHNSON CHRISTOPHER JAMERSON,

Plaintiff - Appellant,

versus

SECRETARY, DEPARTMENT OF CORRECTIONS,
BENJAMIN T. WAPPLER,
Librarian, Tomoka Correctional Institution,
CAPTAIN GODDARD,
Captain of Security, Tomoka Correctional Institution,

Defendants - Appellees.

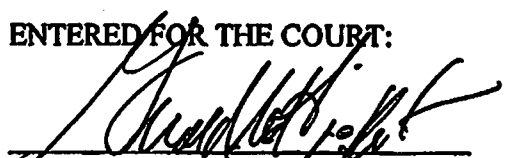
Appeal from the United States District Court
for the Middle District of Florida

BEFORE: TJOFLAT, HULL, and WILSON, Circuit Judges.

PER CURIAM:

The petition(s) for panel rehearing filed by Johnson Christopher Jamerson is DENIED.

ENTERED FOR THE COURT:



UNITED STATES CIRCUIT JUDGE

ORD-41