

CLD-069

January 14, 2021

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. **20-3007**

HASAN SHAREEF, Appellants

VS.

BUTLER COUNTY PUBLIC NEWSPAPER; ET AL.

(W.D. Pa. Civ. No. 2-19-cv-00320)

Present: RESTREPO, MATEY and SCIRICA, Circuit Judges

Submitted is by the Clerk for possible dismissal pursuant to 28 U.S.C. § 1915(e)(2) or possible summary action pursuant to 3d Cir. L.A.R. 27.4 and I.O.P. 10.6

in the above-captioned case.

Respectfully,

Clerk

ORDER

We summarily affirm the District Court's September 11, 2020 order because this appeal presents no substantial question. See 3d Cir. LAR 27.4 and I.O.P. 10.6; see also Murray v. Bledsoe, 650 F.3d 246, 247 (3d Cir. 2011) (per curiam). For essentially the reasons provided by the District Court, Appellant failed to state a claim under 42 U.S.C. § 1983. Accordingly, the District Court did not abuse its discretion in dismissing Appellant's state law claims without prejudice for lack of supplemental jurisdiction. See 28 U.S.C. § 1367(c)(3); Figueroa v. Buccaneer Hotel, Inc., 188 F.3d 172, 181 (3d Cir. 1999). Finally, the District Court did not err in its refusal to grant Appellant leave to amend his complaint, as amendment would be futile. See Grayson v. Mayview State Hosp., 293 F.3d 103, 108 (3d Cir. 2002).

By the Court,

s/ L. Felipe Restrepo

Circuit Judge

Dated: February 2, 2021

CJG/cc: Hasan Shareef

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

HASAN SHAREEF,

Plaintiff,

vs.

BUTLER COUNTY PUBLIC
NEWSPAPER and ERIC
JANKIEWICZ, *Warden Butler
County Jail,*

Defendants.

2:19-cv-320

Hon. J. Nicholas Ranjan

Magistrate Judge Lisa Pupo Lenihan

JUDGMENT

AND NOW, this 11th day of September, 2020, it is hereby **ORDERED** that final judgment is entered in favor of Defendants Butler County Public Newspaper and Eric Jankiewicz. The Clerk shall mark this case **CLOSED**.

BY THE COURT:

/s/ J. Nicholas Ranjan
United States District Judge



UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

No. 2:19-cv-320

HASAN SHAREEF,

Plaintiff

v.

BUTLER COUNTY PUBLIC NEWSPAPER and ERIC
JANKIEWICZ, *Warden Butler County Jail*,

Defendants.

MEMORANDUM ORDER

This is a *pro se* prisoner civil rights action pursuant to 42 U.S.C. § 1983. This matter was referred to Magistrate Judge Lisa Pupo Lenihan for proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1).

Currently before the Court is a Report & Recommendation filed by Judge Lenihan on June 5, 2020, recommending that the Court dismiss Mr. Shareef's Section 1983 claims under for failure to state a claim and, further, decline to exercise supplemental jurisdiction over Mr. Shareef's state-law claims. [ECF 47]. The Court initially adopted the Report & Recommendation and dismissed Mr. Shareef's complaint on July 6, 2020, after he failed to object by June 22, 2020. [ECF 48]. But the Court subsequently agreed to reopen the case, and give Mr.

Shareef additional time to object, after he claimed that he had not received the Report & Recommendation. [ECF 57].

Since then, Mr. Shareef has filed (1) an "objection letter," [ECF 61]; (2) a "Supplemental Brief," [ECF 62]; (3) a "Brief Opposition Response Reply Brief to Attorney General Defendants Lawyers," [ECF 63]; and (4) a "Motion Rehearing on Objection Letter." [ECF 64]. The Court has reviewed them all, and will construe these filings as timely objections to Judge Lenihan's Report & Recommendation.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court must make a *de novo* determination of any portions of the Report & Recommendation to which objections were made. The Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The Court may also recommit the matter to the magistrate judge with instructions.

In his "objection letter" [ECF 61], Mr. Shareef states: "The correction officer are state officials co told warden and warden told Jankiewicz which I think fall under my *pro se* brief." The Court cannot discern any error in the Report & Recommendation based on this statement, and so the objection is **OVERRULED**.

In his "Supplemental Brief" [ECF 62] and "Brief Opposition Response Reply Brief to Attorney General Defendants Lawyers" [ECF 63], Mr. Shareef makes a series of assertions that are difficult to understand but seem to rehash aspects of the allegations made in his complaint. Even when construed liberally, the Court cannot discern any error in the Report & Recommendation from these objections, and so they are **OVERRULED**.

Finally, Mr. Shareef's "Motion Rehearing on Objection Letter" [ECF 64] is blank other than the heading. To the extent an objection is implied, it is **OVERRULED**.

For these reasons, even when construed liberally, Mr. Shareef's filings do not reveal any legal basis for rejecting Judge Lenihan's well-reasoned legal conclusions, or her ultimate recommendation that the Court dismiss the complaint. Thus, upon *de novo* review of the Report &

Recommendation and Mr. Shareef's objections thereto, the following order is now entered:

AND NOW, this **11th day of September, 2020**, it is **ORDERED** that the Report & Recommendation is adopted as the opinion of the Court. [ECF 47].

IT IS FURTHER ORDERED that Mr. Shareef's federal claims under 42 U.S.C. § 1983 are **DISMISSED** pursuant to 28 U.S.C. § 1915(E)(2)(B)(ii)-(iii) and 28 U.S.C. § 1915A(1)-(2). The Court finds that amendment of Mr. Shareef's claims would be futile, and so this dismissal is **WITH PREJUDICE**.

IT IS FURTHER ORDERED that, to the extent Mr. Shareef has raised any state law causes of action, the Court will decline to exercise supplemental jurisdiction over those claims and thus they are **DISMISSED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that, upon entry of final judgment by the Court, the Clerk of Court mark this case **CLOSED**.

Pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Mr. Shareef has thirty (30) days from the date of entry of this order to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

DATED this 11th day of September, 2020.

BY THE COURT:

/s/ J. Nicholas Ranjan
United States District Judge

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 20-3007

HASAN SHAREEF,
Appellant

v.

BUTLER COUNTY PUBLIC NEWSPAPER;
WARDEN BUTLER COUNTY JAIL

D.C. No. 2-19-cv-00320

SUR PETITION FOR REHEARING

Before: SMITH, *Chief Judge*, McKEE, AMBRO, CHAGARES, JORDAN,
HARDIMAN, GREENAWAY, JR., SHWARTZ, KRAUSE, RESTREPO, BIBAS,
PORTER, MATEY, PHIPPS and SCIRICA, **Circuit Judges*

The petition for rehearing filed by appellant in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is denied.

* Judge Scirica's vote is limited to panel rehearing only.

BY THE COURT,

s/ L. Felipe Restrepo
Circuit Judge

Dated: March 17, 2021
JK/cc: Hasan Shareef

Prison IDs problem drug

Prisoner wants property papers tainted with drug returned

By Eric Jankiewicz

Eagle Staff Writer

Butler County Prison officials have confirmed that synthetic marijuana caused a spate of sickened guards at the jail in August, mirroring similar incidents in several county jails.

Drug tests of inmates' mail conducted by county detectives revealed that synthetic marijuana, sometimes called K2 or JWH, was responsible for sickening employees throughout the year at the county jail, according to Joe DeMore, the jail warden. On Aug. 14, DeMore reported that six prison employees had experienced shortness of breath, dilated pupils, dizziness and a burning sensation in their mouths and throats. After a brief hospital visit, their symptoms subsided.

Medical emergencies also occurred at SCI Mercer county jails in Greene and Fayette counties and the Allegheny County Jail, which was locked down Sept. 3 after all employees were sickened under similar circumstances.

These incidents led state officials to lock down state-run prisons Aug. 29 and implement measures meant to prevent the drug from being smuggled in.

See Drug Page 5

BCP-13A.1

Signature

428 FORBES AVE #400
PITTS PA 15219
412.804.1583

From Page 1

At the time, DeMore suspected synthetic marijuana was being used in the jail and ordered a lockdown for five days, forcing all prisoners into isolation while officials conducted a jail-wide search with the help of drug-sniffing dogs.

After the incident, DeMore said that 25 members of the jail's staff underwent hazardous material training on Oct. 26, creating safety measures for the jail's daily operations designed to protect workers from being exposed to health hazards. He added that one inmate has been charged for distributing synthetic marijuana in the jail. Asked for the identity of the inmate, DeMore referred questions to the Bureau of Alcohol, Tobacco, Firearms and Explosives. A spokesman for the bureau couldn't comment in time for publication.

A case close-up

Specific examples of how jail officials and guards interacted during this time of heightened security are hard to come by. But court filings disputing a Butler County Prison inmate's personal property offer a glimpse.

Inmate Hasan Shareef, 42, of Butler, who was arrested in 2016 and is facing multiple felony drug charges, argues that his personal property was

tampered with when he was transferred from Allegheny County Jail to the Butler jail just six days after guards at Butler were hospitalized for drug exposure. Shareef's court-appointed lawyer, Armand Cingolani, filed a return of property request in September.

On high alert, guards processing Shareef's paperwork and property reported similar symptoms that their fellow officers had suffered Aug. 14.

"My right arm and both eyes began to burn, and become irritated," Capt. Clyde Moore reported.

Another officer, Mark Bowman, reported red bumps climbing up his left hand after handling Shareef's items.

After that, DeMore said, guards quarantined Shareef's paperwork and items, but they have not tested them yet. They are waiting for the outcome of Shareef's legal request for returned property.

Shareef failed to appear in court earlier this year for a non-jury trial, triggering a manhunt for him. Authorities ultimately found him in a drug treatment facility in Pittsburgh, where he was arrested. He does not face any additional charges relating to the jail's suspicion that his paperwork is tainted. But DeMore maintains that Shareef's belongings should continue to be quarantined until a determination is made.

"It's in play now, so we'll

see what the court decides," DeMore said. Shareef, for his part, argued that he needs access to his paperwork to dispute charges of committing crimes.

Shareef's court-appointed lawyer, Armand Cingolani, filed a return of property request in September.

In the filing, Cingolani argues on behalf of Shareef that the paperwork is needed for Shareef's defense in two open cases against him. Shareef has been convicted of felonies in multiple states and he is up for trial for suspected drug trafficking dating back to 2016.

Addressing the synthetic marijuana suspicion, Cingolani wrote that after being picked up on a warrant at a rehabilitation facility, "It is the belief of Mr. Shareef that the prison administration with evil intent and malice aforethought ransacked and destroyed his reams and reams of precious and carefully accumulated legal documents and analysis without cause or reason."

DeMore noted that if Shareef's items are subjected to a decontamination process, for which his guards are now prepared, some destruction will occur when removing any possible synthetic marijuana that might be on Shareef's papers.

Origins of JWH

The origins of the drug,

the use of which has been linked to a rise in violent incidents at some state-run corrections facilities, date back to the previous century with an organic chemist at Clemson University.

John W. Huffman, an American organic chemist now retired from Clemson University, first synthesized novel cannabinoids in the 1980s to research the cannabinoid system, according to a study in which Huffman participated.

But the chemical was repurposed for recreation with more than 400 known variants of the chemical, commonly known as JWH, taken from Huffman's name.

Cannabinoids stimulate receptors in the brain responsible for regulating a person's appetite, sleeping patterns and sex drive.

Marijuana is a natural cannabinoid. Products with JWH are distributed under brand names, such as K2 and Spice, by companies that often sell their product online and are advertised as "herbal incense."

The effects of smoking JWH chemicals are said to be similar to smoking marijuana, but have a significantly stronger effect on a person, according to studies. Manufacturers will typically spray the chemical onto an organic material that can be burned and smoked.

Jeeves in Bloom

By Margaret Raether

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LOCAL

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SAXONBURG — Saxonburg's annual holiday parade produced winners in best float.

The winners were: Penn

United Technologies, first place, \$350; Crossfit of Saxonburg, second place, \$250; Yogi Bear Campground, third place, \$150.

Kennihan Plumbing & Heating was awarded \$100 as the honorable mention.

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Prison IDs problem drug

Prisoner wants property, papers tainted with drug returned

By Eric Jankiewicz Eagle Staff Writer

November 27, 2018 Local News

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IN THE COURT OF COMMON PLEAS OF BUTLER COUNTY
PENNSYLVANIA

COMMONWEALTH

vs

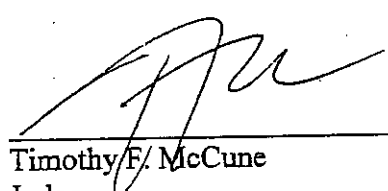
Hasan Shareef

: CRIMINAL DIVISION
:
:
: CP-10-CR-0001714-2016
:
: CP-10-CR-0000592-2018
:

ORDER OF COURT

AND NOW, this 26th day of November, 2018, the Defendant's Motion for Return of Property is granted. The property may be returned to the Defendant's attorney or other designee as long as the inmate executes an authorization provided by the Butler County Prison.

BY THE COURT,


Timothy F. McCune
Judge

11-27-18
MCC

ICC

DA(2) AG

Def/Atty GD/Atty III

File ()

Other Kulich/Atty - DIL

File

BUS - Warden

(9)

W.

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