

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

MICHAEL J. GIGNAC,)
)
 Plaintiff)
)
 v.) Civil No. 96-0205-B
)
 BRYAN T. LAMOREAU, et al.,)
)
 Defendants)

RECOMMENDED DECISION

This matter has been remanded to the undersigned magistrate judge for consideration of whether Defendants Fore, Huard, Kennerson, Lake, Mesaric, Skidgel, and Wells are entitled to qualified immunity for their actions relative to Plaintiff's claim of due process violations in the imposition of disciplinary sanctions against him.¹ Upon consideration of the law surrounding procedural due process requirements in the pretrial detention context, the Court concludes that Defendants are entitled to qualified immunity, and that their Motion for Summary Judgment on Plaintiff's due process claim should be granted.

The doctrine of qualified immunity shields government officers "from civil damages liability as long as their actions could reasonably have been thought consistent with the rights they are alleged to have violated." *Hegarty v. Somerset County*, 53 F.3d 1367, 1373 (1st Cir. 1995) (quoting *Anderson v. Creighton*, 483 U.S. 635, 638 (1987)). The immunity provides for the "inevitable reality

¹ This claim was raised in one sentence, but not briefed, in Defendants' original Memorandum in Support of their Motion for Summary Judgment. *See* D. Me. R. 26(a) ("Every motion shall incorporate a memorandum of law, *including citations and supporting authorities*") (emphasis added).

that 'law enforcement officials will in some cases reasonably but mistakenly conclude that [their conduct] is [constitutional], and . . . that . . . those officials -- like other officials who act in ways they reasonably believe to be lawful -- should not be held personally liable.'" *Id.* (quoting *Anderson*, 483 U.S. at 641). The inquiry regarding qualified immunity "takes place prior to trial, on motion for summary judgment . . . and requires no fact finding, only a ruling of law strictly for resolution by the court." *Id.* at 1373-74.

The qualified immunity inquiry has two prongs. The first prong requires the Court to determine whether the right asserted by Plaintiff was clearly established at the time of the contested events. *Id.* at 1373. At first glance, the law appears fairly settled in this area. It has long been established that "punishment may not be inflicted upon pretrial detainees prior to an adjudication of guilt in accordance with due process of law." *Collazo-Leon v. United States Bur. of Prisons*, 51 F.3d 315, 317 (1st Cir. 1995) (citing *Bell v. Wolfish*, 441 U.S. 520 (1979)). We must go one step further, however, and determine whether the specific contours of the right were sufficiently established such that an officer could understand how the law would be applied to his or her actions in the case at hand. *Anderson*, 483 U.S. at 640. The Court concludes that the contours were not sufficiently established in this case.

The first issue is whether it was clearly established law that the disabilities imposed upon Plaintiff in this case amount to "punishment" within the meaning of the due process clause. Courts in other circuits have interpreted the Supreme Court's definition of "punishment" as including only those measures lacking a reasonable relation to legitimate institutional objectives. *See, eg., Smith v. Copeland*, 892 F. Supp. 1218, 1233 (E. D. Mo. 1995) (citing *Bell*, 441 U.S. at 546). According to this analysis, "there exists no basis in the Due Process Clause or elsewhere in the Constitution for

requiring that discipline not be imposed upon a pretrial detainee for violations of institutions discipline without . . . particular procedural mechanisms." *Id.*

Using the same Supreme Court authority, however, the First Circuit had no difficulty designating segregation and loss of privileges imposed on a detainee following an escape attempt as "punishment," while nevertheless finding the measures proper in light of the Supreme Court's "clear approval of a broad exercise of discretion by prison authorities to take reasonable and necessary action . . . to enforce the prison disciplinary regime and to deter even pretrial detainees from violation of its requirements." *Collazo-Leon*, 51 F. 3d at 318. The First Circuit was not alone in determining the "punishment" question without reference to the reason given for imposing the discipline. *See Mitchell v. Dupnik*, 75 F.3d 517, 524 (9th Cir. 1996) (where segregation was imposed as a result of violation of jail rules, "there can be no question that the purpose and effect of [the detainee's] segregated confinement was punishment"). Nevertheless, this particular interpretation was apparently later abandoned when the First Circuit upheld a challenge to jury instructions that read, in pertinent part:

Not all restrictions and conditions during pretrial detention amount to punishment in the constitutional sense, however. Once the government has exercised its authority to detain a person pending trial, it may obviously impose conditions or restrictions necessary to effectuate the legitimate goals of maintaining institutional security and ensuring the detained person's presence at trial.

O'Connor v. Huard, 117 F.3d 12, 15 (1st Cir. 1997). In approving these instructions, the court relied upon the Supreme Court's statement that "'if a particular condition or restriction of pretrial detention is reasonably related to a legitimate government objective, it does not, without more, amount to 'punishment.''" *Id.* (quoting *Bell*, 441 U.S. at 538).

Although it now appears that the First Circuit adheres to the view that a measure is not "punishment," and does not therefore invoke the requirements of due process, so long as it is reasonably related to legitimate institutional goals, the disabilities complained of in this case are alleged to have been imposed during early 1996, after the court's decision in *Collazo-Leon*, but prior to the decision in *O'Connor*. I accordingly recommend the Court find that it was clearly settled law, at the time of the incidents giving rise to Plaintiff's due process claim, that the disciplinary measures at issue in this case were "punishment" within the meaning of the due process clause.

The more difficult issue is whether, and to what extent, Plaintiff was entitled to procedural due process in light of a conclusion that the measures imposed upon him amounted to punishment. In *Collazo-Leon*, the First Circuit characterized the punishment as "reasonable means . . . to achieve a legitimate governmental objective," and vacated the district court's grant of the writ of habeas corpus on the grounds of *substantive* due process. *Collazo-Leon*, 51 F.3d at 318-19. The court nevertheless remanded the matter for the district court's determination whether the plaintiff's *procedural* due process rights were violated. *Id.* at 319. In so doing, the court indicated its approval of the issue as framed in the district court: "whether a pretrial detainee can be administratively punished during such detention without the benefit of *even a cursory hearing* to determine his innocence or guilt of such charges." *Id.* at 319 n.4 (emphasis added). Following the court's resolution of the questions presented in that case, then, it was not clear whether a hearing would be necessary if the punishment was found to be reasonably related to legitimate institutional goals. Further, it was not clear what form of hearing would be required.

I am satisfied that the First Circuit would conclude that a disciplinary hearing, if required, must meet the minimum requirements outlined by the Supreme Court in *Wolff v. McDonnell*, 418

U.S. 539 (1974).² The court has not been presented with the question, however, and corrections officials had only the First Circuit opinion in *Collazo-Leon* to guide their behavior in early 1996. Against that backdrop, I conclude that the hearings provided to Plaintiff, particularly in light of the extent to which those hearings mirrored the *Wolff* requirements, "could reasonably have been thought consistent with" Plaintiff's due process rights. *Hegarty*, 53 F.3d at 1373 (quoting *Anderson*, 483 U.S. at 638).

Conclusion

Accordingly, I recommend Defendants' Motion for Summary Judgment on Plaintiff's due process claims be granted for the reason that Defendants are entitled to qualified immunity with respect to those claims.

NOTICE

A party may file objections to those specified portions of a magistrate judge's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) (1988) for which *de novo* review by the district court is sought, together with a supporting memorandum, within ten (10) days of being served with a copy thereof. A responsive memorandum shall be filed within ten (10) days after the filing of the objection.

Failure to file a timely objection shall constitute a waiver of the right to *de novo* review by the district court and to appeal the district court's order.

² It is well established that pretrial detainees enjoy due process rights that "are at least as great as the Eight Amendment protections available to a convicted prisoner" in the medical care context, *Revere v. Massachusetts Gen. Hosp.*, 463 U.S. 239, 244 (1983) (citing *Bell*, 441 U.S. 520, 535 n.16 (1979)). Other circuits have found no difficulty affording at least as much protection in the procedural due process realm as well, applying without discussion the *Wolff* requirements to cases involving pretrial detainees. *Mitchell v. Dupnik*, 75 F.3d 517, 525 (9th Cir. 1996).

Eugene W. Beaulieu
United States Magistrate Judge

Dated on March 3, 2000.