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

H. BEATTY CHADWICK	:	
	:	CIVIL ACTION
v.	:	
	:	NO. 05-1443
COURT OF COMMON PLEAS	:	
OF DELAWARE COUNTY,	:	
PENNSYLVANIA, ET AL.	:	

SURRICK, J. **JUNE 15, 2006**

MEMORANDUM & ORDER

Presently before the Court are Plaintiff H. Beatty Chadwick's Emergency Motion (Doc. No. 2) and Defendants The Geo Group, Inc., Ronald Nardolillo, And Charles P. Sexton Jr.'s Motion To Dismiss Plaintiff's Complaint (Doc. No. 10).[1] For the following reasons, Defendants' Motion will be treated as a motion for summary judgment, and the motion will be granted. Plaintiff's Motion will be denied.

I. FACTUAL BACKGROUND

The circumstances of Plaintiff's legal saga are well-known and well-documented. In November 1992, Plaintiff's wife, Barbara Chadwick, commenced a divorce action against him in the Court of Common Pleas of Delaware County. *Chadwick v. Chadwick*, No. 92-193535 (Pa. Ct. Com. Pl. Del. County 1992). Prior to the couple's separation, Plaintiff had entered into an investment agreement with a Gibraltar corporation, Maison Blanche, Ltd. In February 1993, Plaintiff transferred funds in excess of $2.5 million to Maison Blanche, Ltd. (Doc. No. 1 ¶ 17.) On July 22, 1994, the Honorable Joseph Labrum of the Court of Common Pleas of Delaware County entered an order directing Plaintiff to return the $2.5 million to an account under the

[1] Defendant Court of Common Pleas of Delaware County have also filed a Motion To Dismiss Plaintiff's Complaint (Doc. No. 9). We will address that Motion in a separate order.

jurisdiction of the court and enjoining him from further assigning, concealing, secreting, or dissipating marital assets. (Doc. No. 10 ¶ 10.) Plaintiff failed to comply with the order and, on November 2, 1994, he was found in contempt. Judge Labrum directed that Plaintiff be incarcerated until contempt was purged. (Doc. No. 1 ¶ 19.) On April 5, 1995, Plaintiff was arrested and bail was set at $3 million. (Doc. No. 10 ¶ 11.) Since that date, Plaintiff has been incarcerated at the George W. Hill Correctional Facility (the "Prison") in Delaware County. (Doc. No. 1 ¶ 8.)

Plaintiff has made multiple attempts to collaterally attack his incarceration. He has filed at least eleven Petitions for Writ of Habeas Corpus in Pennsylvania state court, *see, e.g.*, *Chadwick v. Nardolillo*, No. 170 EDM 2004 (Pa. Super. Ct. Dec. 20, 2004); *Chadwick v. Caulfield*, 834 A.2d 562 (Pa. Super. Ct. 2003), and at least six Petitions for Writ of Habeas Corpus in federal court, *see, e.g.*, *Chadwick v. Hill*, No. 95-0130, 1995 U.S. Dist. LEXIS 13081 (E.D. Pa. Sept. 8, 1995); *Chadwick v. Andrews*, No. 97-4680, 1998 U.S. Dist. LEXIS 6123 (E.D. Pa. Apr. 30, 1998); *Chadwick v. Janecka*, 312 F.3d 597 (3d Cir. 2002). Except for those petitions that are currently pending,[2] all attempts have been unsuccessful. Most notably, in 2002, the Third Circuit Court of Appeals reversed a decision of the district court granting habeas corpus relief. The Third Circuit stated:

> Because the state courts have repeatedly found that Mr. Chadwick has the present ability to comply with the July 1994 state court order, we cannot disturb the state courts' decision that there is no federal constitutional bar to Mr. Chadwick's

[2] Plaintiff's most recent federal habeas petition is currently pending before the Honorable Norma L. Shapiro. *Chadwick v. Hill*, No. 06-1709 (E.D. Pa. Apr. 21, 2006). A three-member panel of judges of the Delaware County Court of Common Pleas denied his most recent state habeas petition ("State Habeas #11") on February 22, 2006. *Chadwick v. Chadwick*, No. 92-19535 (Pa. Ct. Com. Pl. Del. County 1992).

> indefinite confinement for civil contempt so long as he retains the ability to comply with the order requiring him to pay over the money at issue.

Janecka, 312 F.3d at 613.

The instant Complaint, which is brought pursuant to 42 U.S.C. § 1983, attacks the conditions of Plaintiff's confinement. Plaintiff alleges that he is sixty-nine years old and suffers from non-Hodgkin's lymphoma, a cancer of the lymphoid tissues. (Doc. No. 2 at 2.) This disease weakens Plaintiff's immune system and places him at particular risk of infectious disease. (Doc No. 1 ¶ 29.) In the two years prior to bringing this action, Plaintiff suffered two recurrences of this disease for which he received a two-month course of radiation therapy. (Doc. No. 2 at 2.) Plaintiff alleges that in Prison he is deprived of a "clean hygienic living environment," "an appropriate diet," "opportunity for exercise," "fresh air and sunshine," "uninterrupted sleep," "emotional support," "immediate contact with specialized medical experts," "the ability to plan and schedule necessary medical appointments," and "the ability to participate in clinical trials." (Doc. No. 1 ¶¶ 29-37.) He argues that these conditions, given the duration of his confinement as well as his age and state of health, "ha[ve] had and now ha[ve] a material adverse effect on his ability to cope with lymphoma and resist the recurrence thereof and on his ability to protect against diseases of aging." (*Id.* ¶¶ 39.) According to Plaintiff, "[i]mprisonment under such conditions constitutes impermissible punishment" and Defendants' refusal to grant relief from such conditions "has deprived [him] of his Fourteenth Amendment right to be free of punishment." (*Id.* ¶¶ 39, 41.)

Plaintiff has previously filed a motion in state court raising issues similar to those in the instant Complaint. That motion, titled a Motion for Release or, in the Alternative, for a

Reduction in Bail and/or Home Monitoring Due to Defendant's Medical Condition (hereinafter "Motion for Release"), was denied on February 10, 2005 after a hearing. *Chadwick v. Chadwick*, No. 92-19535 (Pa. Ct. Com. Pl. Del. County Feb. 10, 2005) (order denying motion). In that motion, Plaintiff argued that his "confinement in prison under these conditions is cruel" and Plaintiff sought to have his incarceration discontinued. (Doc. No. 10 at Ex. D ¶¶ 10-11.) In deciding the issues raised in that motion, the court considered testimony from Dr. Stephen Schuster, M.D., the oncologist at the University of Pennsylvania Cancer Center who has been treating Plaintiff's lymphoma, and from Dr. Victoria Gessner, M.D., Medical Director at the Prison, as well as testimony from Plaintiff himself concerning the conditions of his confinement. *Chadwick*, No. 92-19535, at 5-6. The court denied the motion, concluding that "Dr. Gessner and her staff at the prison can absolutely render adequate medical care and coordinate [Plaintiff's] medical care" and that "as Dr. Schuster told Dr. Gessner, Mr. Chadwick has received exactly the same care he would have received had he not been incarcerated." *Id.* at 12-13. The Supreme Court of Pennsylvania denied Plaintiff's Petition for Allowance of Appeal from that decision. *Chadwick v. Chadwick*, No. 163 MAL 2005 (Pa. July 12, 2005).

II. LEGAL ANALYSIS

The Motion of Defendants The Geo Group, Inc., Nardolillo, and Sexton contains a number of attachments. These attachments include the deposition of Dr. Schuster and the deposition of Dr. Gessner, both of which were made a part of the record and considered by the state court during its review of Plaintiff's Motion for Release, the transcript of the state court proceedings, and the Findings of Fact and Decision of the state court denying Plaintiff's Motion for Release. (Doc. No. 10 at Exs. A-G.)

Federal Rule of Civil Procedure 12(b) provides that if, on a 12(b)(6) motion to dismiss, "matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment as provided in Rule 56." Fed. R. Civ. P. 12(b). Before a motion to dismiss may be treated as one for summary judgment, the parties must have a "reasonable opportunity to present all material made pertinent to such a motion by Rule 56." *Id.* While this is usually accomplished by notice from the court, there are circumstances in which a party will be deemed to have "constructive notice" that conversion will occur. *See Black v. United States*, 900 F. Supp. 1129, 1135 (D. Minn. 1994) ("By submitting their extra-pleadings matters, the parties had constructive notice of the court's intention to consider matters outside the pleadings."); *Togut v. Hecht*, 69 B.R. 290, 291 (S.D.N.Y 1987); *see also Hilfirty v. Shipman*, 91 F.3d 573, 578-79 (3d Cir. 1996) (recognizing situation where actual notice is not required, since two of five motions to dismiss were cross-captioned as motions for summary judgment).

In this case, Plaintiff is an attorney representing himself. He was served with a copy of Defendants' Motion, including the extra-pleading materials. (Doc. No. 11.) Plaintiff was familiar with these materials, all of which are part of the record in the state court proceedings. In fact, Plaintiff submitted a section of the Schuster deposition as an exhibit to his own state habeas petition filed December 6, 2004. (Petition for Writ of Habeas Corpus, *Chadwick v. Nardolillo*, No. 92-19535, at Ex. E (Pa. Ct. Com. Pl. Del. County 1992); Doc. No. 10 at Ex. B.) Moreover, Plaintiff has had the opportunity to object to the attachments or to respond by presenting contrary evidentiary support since April 2005, when Defendants filed their Motion. *See Moody v. Town of Weymouth*, 805 F.2d 30, 31 (1st Cir. 1986) (eleven months is "plenty of time [for plaintiff] to file his own affidavit or material disputing any of defendants' assertions"). He has failed to do

either. Finally, the state court hearing on the Motion for Release was held on September 29, 2004. (Doc. No. 10 at Ex. E.) Plaintiff was represented by counsel and testified at that hearing in detail concerning his medical condition and the effect of prison life on that condition. The record of the hearing was closed after the October 11, 2004 deposition of Dr. Gessner was submitted to the court. On February 10, 2005, the state court issued its Findings of Fact and denied the Motion for Release. (*Id.* at Ex. H.) Within weeks, the instant Complaint and Emergency Motion were filed. The issues raised in the state court proceedings and in this Complaint and Emergency Motion are substantially similar.

We are satisfied that this combination of unusual factors justifies the conclusion that Plaintiff, an attorney, would reasonably anticipate that this Court would convert Defendants' Motion to a motion for summary judgment. *Cf. Laughlin v. Metro. Wash. Airport Auth.*, 149 F.3d 253, 260-61 (4th Cir. 1998). Accordingly, we will treat Defendants' Motion to Dismiss as a motion for summary judgment and review it as such.

Summary judgment is appropriate "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 judgment as a matter of law." Fed. R. Civ. P. 56(c). The party moving for summary judgment bears the initial burden of demonstrating that there are no facts supporting the nonmoving party's legal position. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 322-24 (1986). The burden then shifts to the nonmoving party who "must do more than simply show that there is some metaphysical doubt as to the material facts." *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986). "The nonmoving party . . . cannot 'rely merely upon bare assertions, conclusory allegations or

suspicions' to support its claim," *Townes v. City of Phila.*, No. Civ. A. 00-CV-138, 2001 WL 503400, *2 (E.D. Pa. May 11, 2001) (quoting *Fireman's Ins. Co. v. DeFresne*, 676 F.2d 965, 969 (3d Cir. 1982)). Rather, the party opposing summary judgment must go beyond the pleadings and present evidence through affidavits, depositions, or admissions on file to show that there is a genuine issue for trial. *See Celotex*, 477 U.S. at 324. When deciding a motion for summary judgment, the court must construe the evidence and any reasonable inferences therefrom in the nonmovant's favor. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986). A genuine issue of material fact exists only when "the evidence is such that a reasonable jury could return a verdict for the non-moving party." *Anderson*, 477 U.S. at 248.

Plaintiff claims that the conditions of his confinement at the Prison have deprived him of his Fourteenth Amendment right to be free of punishment. (Doc. No. 1 at 8.) We assess this claim in light of Plaintiff's status as a civil contemnor, under which he is said to "'carr[y] the keys of his prison in his own pocket'" because he remains "able to purge the contempt and obtain his own release by committing an affirmative act." *Int'l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 828 (1993) (quoting *Gompers v. Bucks Stove & Range Co.*, 221 U.S. 418, 442 (1911)). That is not to say, of course, that Plaintiff is without recourse to challenge the terms under which he is incarcerated. As a civil contemnor, like a pretrial detainee,[3] Plaintiff has not been adjudged guilty of any crime and therefore cannot be punished at all under the Due Process Clause of the Fourteenth Amendment. *Hubbard v. Taylor*, 399 F.3d 150, 166 (3d Cir. 2005).

[3] Due to the similar footing occupied by civil contemnors and pretrial detainees, we rely on caselaw dealing with detainees' civil rights in analyzing Plaintiff's claim. Other courts have taken this approach when evaluating similar claims by contemnors. *See Serton v. Sollie*, No. 02-61010, 2003 U.S. App. LEXIS 24199, at *7 (5th Cir. Dec. 2, 2003); *Thompson v. County of Cook*, 412 F. Supp. 2d 881, 887 (N.D. Ill. 2005).

In evaluating whether the conditions of Plaintiff's confinement amount to unconstitutional punishment, we apply the standard articulated by the Supreme Court in *Bell v. Wolfish*, 441 U.S. 520 (1979). *See Hubbard*, 399 F.3d at 158 n.13 (Fifth Amendment Due Process standard in *Bell* applies equally to claims brought under Fourteenth Amendment by state pretrial detainees). This standard is applicable even if we are to interpret Plaintiff's claim as one for inadequate medical treatment. *Montgomery v. Ray*, 145 Fed. App'x 738, 739-40 (3d Cir. 2005) ("While 'the due process rights of a pre-trail detainee are *at least* as great as the *Eighth Amendment* protections available to a convicted prisoner,' the proper standard for examining such claims is the standard set forth in *Bell v. Wolfish*; i.e., whether the conditions of confinement (or here, inadequate medical treatment) amounted to punishment prior to the adjudication of guilt." (internal citations omitted and quoting *Hubbard*, 399 F.3d at 166)).

In *Bell*, the Supreme Court makes it clear that "[n]ot every disability imposed during pretrial detention amounts to 'punishment' in the constitutional sense." *Bell*, 441 U.S. at 537. Confinement inevitably involves a restriction in the "movement of a detainee in a manner in which he would not be restricted if he simply were free to walk the streets. . . . Loss of freedom of choice and privacy are inherent incidents of confinement in such a facility." *Id.*

In order to determine whether such conditions amount to punishment:

> A court must decide whether the disability is imposed for the purpose of punishment or whether it is but an incident of some other legitimate governmental purpose. Absent a showing of an expressed intent to punish on the part of the detention facility officials, that determination generally will turn on "whether [it has] an alternative purpose . . . and whether it appears excessive in relation to [that] purpose" . . . . Thus, if a particular condition or restriction of pretrial detention is reasonably related to a legitimate governmental objective, it does not, without more, amount to "punishment." Conversely, if a restriction or condition is not reasonably related to a legitimate goal—if it is arbitrary or purposeless—a

> court may permissibly infer that the purpose of the governmental action is punishment that may not constitutionally be inflicted upon detainees *qua* detainees.

Id. at 538-39 (internal quotations and citations omitted). In performing this analysis, the Court reasoned that the "effective management of the detention facility once the individual is confined is a valid objective that may justify imposition of conditions and restrictions of pretrial confinement and dispel any inference that such restrictions are intended as punishment." *Id.* at 540. The Third Circuit has "distilled" the teachings of *Bell* into a two-step inquiry:

> [W]e must ask, first, whether any legitimate purposes are served by these conditions, and second, whether these conditions are rationally related to these purposes. In assessing whether the conditions are reasonably related to the assigned purposes, we must, further, inquire as to whether these conditions "cause [inmates] to endure [such] genuine privations and hardship over an extended period of time," that the adverse conditions become excessive in relation to the purposes assigned for them.

Union County Jail Inmates v. Di Buono, 713 F.2d 984, 992 (3d Cir. 1983) (quoting *Bell*, 441 U.S. at 542).

While we understand the seriousness of Plaintiff's medical condition, the prison conditions he challenges as unconstitutional do not amount to punishment under the *Bell* standard. Plaintiff complains that he is "housed in close living quarters together with prisoners who suffer from various infectious diseases" (Doc. No. 1 ¶ 29); that he is "deprived of normal sleep patterns by the noise" (*Id.* ¶ 33); that he is "deprived of emotional support from family, friends, and support groups" (*Id.* at ¶ 34); that he lacks opportunity for exercise (*Id.* ¶ 31); and that he is "deprived of fresh air and sunshine" (Doc. No. 1 ¶ 32). Maintenance of any prison necessarily requires housing numerous individuals in an enclosed, finite space. However, we note that Plaintiff's situation is in fact unique, in that he has been permitted to occupy his own

cell at the Prison. (Doc. No. 10 ¶ 71(d).) In addition, securing the Prison and its inmates necessarily requires limiting access to the outdoors, to the general public, and to certain areas of the Prison. As such, a prisoner's opportunities for exercise are understandably constrained. It follows that Plaintiff's exercise may be restricted to walking "around in circles in the day room for about a half hour" or using the Prison gym during the early morning, when Plaintiff "would rather get [his] sleep." (Sept. 29, 2004 Hr'g Tr., Doc. No. 10 at Ex. E, p. 28.) It is also not surprising that Plaintiff is required to rely on Prison mental health staff for emotional support, rather than outside support groups, or that securing a prison, a twenty-four-hours-a-day responsibility, may require occasional disruption to prisoners' sleep schedules. (Gessner Dep., Doc. No. 10 at Ex. G, p. 94.)

None of these conditions were imposed with the objective of punishing Plaintiff. Rather, each is "reasonably related to the Government's interest in maintaining security and order and operating the institution in a manageable fashion." *Bell*, 441 U.S. at 540. We recognize that Prison policies are "peculiarly within the province and professional expertise of corrections officials" and, given "the absence of substantial evidence in the record to indicate that the officials have exaggerated their response to these considerations," we elect to "defer to their expert judgment in such matters." *Id.* at 540 n.23. Moreover, it cannot be said that these conditions have become "excessive in relation to the purposes assigned for them." *Union County Jail Inmates*, 713 F.2d at 992.

We reach the same conclusion with respect to Plaintiff's complaints that he is "unable to have immediate contact with the specialized medical experts who treat him" and that he "lacks the ability to plan and schedule necessary medical appointments in an orderly and appropriate

fashion." (Doc. No. 1 ¶¶ 35-36.) Once again, the responsibility of "maintaining security and order" and operating the Prison "in a manageable fashion" necessarily requires developing policies for the provision of medical care. These policies require Plaintiff to coordinate his outside treatment with Prison medical staff and with the Court of Common Pleas, and to utilize Prison medical staff if an emergency occurs. Significantly, Plaintiff's oncologist, Dr. Schuster, has testified that although Plaintiff's imprisonment poses some potential risks, he has thus far been able to treat Plaintiff's lymphoma without any "adverse event[s] related to his current situation." (Schuster Dep., Doc. No. 10 at Ex. F, p. 17.) For example, Plaintiff has received follow-up treatment at the recommended intervals. (*Id.* at 24.) In addition, Dr. Schuster is satisfied with Plaintiff's ability to be initially observed and treated by Dr. Gessner at the Prison, after which she communicates her findings to Dr. Schuster. (*Id.* at 29.) The fact of Plaintiff's incarceration has not changed Dr. Schuster's diagnosis, recommendations, or prognosis. (*Id.* at 51.) Accordingly, we conclude that the conditions under which Plaintiff requests and receives medical treatment do not amount to punishment.

It is also apparent that Plaintiff's alleged inability to participate in clinical trials or to receive "an appropriate diet" do not amount to punishment. (Doc. No. 1 ¶¶ 30, 37.) In fact, there is no indicatation that Plaintiff is actually restricted in these regards. Dr. Gessner testified that, were Dr. Schuster to request that Plaintiff receive a special diet, one would be provided by the Prison. (Gessner Dep., Doc. No. 10 at Ex. G, p. 47-48.) No such request has ever been made. (*Id.*) Dr. Schuster's testimony also includes no indication that Plaintiff would benefit from participating in clinical trials, nor is there any indication that his incarceration would prevent

such participation. Dr. Schuster has expressed satisfaction with Plaintiff's current treatment regimen. (Schuster Dep., Doc. No. 10 at Ex. F, p. 51.)

In concluding our analysis we note that in cases decided before *Hubbard v. Taylor*, the Third Circuit used an Eighth Amendment analysis when reviewing claims of inadequate medical treatment brought by pretrial detainees. *See, e.g.*, *Natale v. Camden County Corr. Facility*, 318 F.3d 575, 582 (3d Cir. 2003); *Kost v. Kozakiewicz*, 1 F.3d 176, 188 (3d Cir. 1993); *Boring v. Kozakiewicz*, 833 F.2d 468, 471 (3d Cir. 1987). In *Estelle v. Gamble*, 429 U.S. 97 (1976), the Supreme Court determined that "[a]cts or omission sufficiently harmful to evidence deliberate indifference to serious medical needs" constitute cruel and unusual punishment under the Constitution. *Id.* at 106. Whether this standard now controls due process claims brought by nonconvicted individuals or not,[4] it provides a useful reference point for our analysis, in that Plaintiff's due process rights are "at least as great" as the Eighth Amendment protection accorded convicted prisoners. *See Boring*, 833 F.2d at 472.

It is clear that Prison officials in this case have not demonstrated "deliberate indifference" to Plaintiff's medical needs. To substantiate a "deliberate indifference" claim, a prison official must be shown to have "know[n] of and disregard[ed] an excessive risk to inmate health or safety." *Natale*, 318 F.3d at 582 (internal quotations omitted). Dr. Gessner's deposition and the state court record indicate that Prison officials and the Court of Common Pleas have taken

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[4] In *Hubbard*, the Third Circuit acknowledged that in *Kost* and other previous decisions, it "had analyzed a pretrial detainee's claim of inadequate medical treatment under the *Eighth Amendment* standards articulated in *Estelle*." *Hubbard*, 399 F.3d at 166 n.22. *Hubbard*, however, instructs us that *Estelle* only establishes a "floor" for evaluating such claims by pretrial detainees and that *Bell v. Wolfish* provides the controlling standard applicable to claims like Plaintiff's. *Id.* at 166-67. The Third Circuit's recent opinion in *Montgomery v. Ray*, 145 Fed. App'x at 739-40, further clarifies this distinction.

affirmative steps to ensure that Plaintiff receives appropriate and necessary medical care. Moreover, Dr. Schuster testified that Plaintiff's treatment and recovery have been largely uninhibited by his incarceration. The conditions of Plaintiff's confinement do not meet the *Estelle* "deliberate indifference" standard and do not violate Plaintiff's Eighth Amendment rights. Moreover, using the standard announced in *Bell*, it is clear that the conditions of Plaintiff's confinement fail to constitute a Due Process violation.

In that summary judgment is being entered in favor of Defendants, Plaintiff cannot obtain injunctive relief. *Allegheny Energy, Inc. v. DQE, Inc.*, 171 F.3d 153, 158 (3d Cir. 1999) (injunctive relief is appropriate only if movant can show a reasonable probability of success on the merits). As such, Plaintiff's Emergency Motion will be denied.

III. CONCLUSION

For the foregoing reasons, Plaintiff's Emergency Motion will be denied, and Defendants' converted motion for summary judgement will be granted.

An appropriate Order follows.

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

H. BEATTY CHADWICK	:	
	:	CIVIL ACTION
v.	:	
	:	NO. 05-1443
COURT OF COMMON PLEAS	:	
OF DELAWARE COUNTY,	:	
PENNSYLVANIA, ET AL.	:	

ORDER

AND NOW this 15th day of June, 2006, upon consideration of Plaintiff H. Beatty Chadwick's Emergency Motion (Doc. No. 2) and Defendants The Geo Group, Inc., Ronald Nardolillo, And Charles P. Sexton, Jr.'s Motion To Dismiss Plaintiff's Complaint (Doc. No. 10), it is ORDERED as follows:

1. Defendants' Motion to Dismiss is treated as a motion for summary judgment pursuant to Fed. R. Civ.P 12(b) and is GRANTED. Judgment is entered in favor of Defendants The Geo Group, Inc., Ronald Nardolillo, and Charles P. Sexton, Jr. and against Plaintiff H. Beatty Chadwick.

2. Plaintiff's Emergency Motion (Doc. No. 2) is DENIED.

IT IS SO ORDERED.

BY THE COURT:

/s R BARCLAY SURRICK

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R. Barclay Surrick, Judge