

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 01-11338-RWZ

WILLIAM SANTIAGO, *pro se*

v.

NESTOR CRUZ, *et al.*

MEMORANDUM OF DECISION AND ORDER

June 14, 2004

ZOBEL, D.J.

Plaintiff William Santiago is a prisoner serving a 33- to 40-year sentence at the Souza Baranowski Correctional Center ("SBCC" or "the prison") in Shirley, Massachusetts. In early 2001 a woman obtained a restraining order in Somerville District Court that prohibited him from contacting her by mail. Plaintiff attempted to file a motion to modify the order and mailed her a service copy. The woman notified the prison that she had received mail from plaintiff, and the prison initiated disciplinary proceedings against him for violating the restraining order. Plaintiff then filed a lawsuit against the woman alleging that she obtained the restraining order under false pretenses – and again attempted to mail her a service copy. The prison intercepted and confiscated the package. Another disciplinary report was made, and plaintiff was placed on "awaiting action status" in the prison's Special Management Unit pending the disciplinary proceedings. After 28 days, the disciplinary reports were dismissed, at which time plaintiff returned to the prison's general population.

Plaintiff filed this action pro se against three correctional officers and a paralegal at the prison, alleging violations of the United States and Massachusetts Constitutions, state and federal statutes, and state prison regulations. The parties have filed cross-motions for summary judgment. The undisputed record before this Court establishes that with one exception, plaintiff has not suffered and will not suffer any harm for which monetary or prospective relief can be granted.

Plaintiff's allegation that he was denied a hearing on the disciplinary reports is not compensable because he prevailed without one. Nor is there genuine dispute that plaintiff's prison classification has been unaffected by the dismissed disciplinary reports. Plaintiff has failed to show that defendants "impose[d] atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life" so as to violate due process or any other constitutional right. Sandin v. Conner, 515 U.S. 472, 484 (1995). Under the regulations, prison officials have complete discretion to place inmates on "awaiting action" status during the pendency of a disciplinary proceeding. 103 C.M.R. 430.21(1). And plaintiff's rights to use the mail and access the courts were vindicated in the end, despite defendants' refusal to send mail to a woman who had a restraining order against him. Plaintiff was able to get decisions on the merits in Massachusetts courts as to both his attempt to modify the restraining order and his subsequent lawsuit. L.M. v. Santiago, 795 N.E.2d 12, Nos. 01-P-1422, 02-P-492, 2003 WL 22087559 (Mass. App. Ct. Sept. 9, 2003), rev. den. 806 N.E.2d 102 (Mass. Mar. 31, 2004). The only possible way that plaintiff has been harmed is that, according to his Complaint, he did not receive 7.5 days of good time credit for the 28 days that he spent on "awaiting action" status. Given that the disciplinary reports were dismissed as unfounded,

defendants shall show cause as to why plaintiff should not receive the credit for the days spent in the Special Management Unit.

Accordingly, plaintiff's motion for summary judgment is denied. Defendants' motion is allowed except as to the question of the 7.5 days of good time credit plaintiff claims. Defendants shall file by June 23, 2004, a statement either explaining why plaintiff is not entitled thereto, or granting him the good time credit.

DATE

/s/ Rya W. Zobel
RYA W. ZOBEL
UNITED STATES DISTRICT JUDGE