

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

HECTOR RODRIGUEZ)	
)	
v.)	C. A. No. 12-510-M
)	
BRIAN K. MURPHY, et al.)	
)	

MEMORANDUM AND ORDER

JOHN J. MCCONNELL, JR., United States District Judge.

Plaintiff Hector Rodriguez, a detainee at the Donald W. Wyatt Detention Facility (“Wyatt”) in Central Falls, Rhode Island, has filed a Complaint *pro se* (ECF No. 1) seeking declaratory and injunctive relief and damages pursuant to 42 U.S.C. § 1983 and related statutes (the “Complaint”). This Court has screened the Complaint pursuant to 28 U.S.C. § 1915(e)(2) and 28 U.S.C. § 1915A.¹ The Complaint names as defendants three employees of Wyatt: Brian K. Murphy, the warden; Major Christopher Coburn, chief of security; and Ms. Jean Singleton, Director of Programs.

I. DISCUSSION

A. Screening under § 1915(e)(2) and § 1915A

In connection with proceedings *in forma pauperis*, § 1915(e)(2) instructs the Court to dismiss a case at any time if the Court determines that the action, *inter alia*, fails to state a claim on which relief may be granted. 28 U.S.C. § 1915(e)(2).² Similarly, § 1915A directs courts to

¹ Plaintiff has also filed an application to proceed *in forma pauperis* (ECF No. 2.) (“IFP application”).

² 28 U.S.C. § 1915(e)(2) states:

(2) Notwithstanding 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 –

screen complaints filed by prisoners against a governmental entity or officer or employee and to dismiss the complaint, or any portion thereof, for reasons identical to those set forth in § 1915(e)(2).³

B. Legal Standard Under § 1983

In order to maintain a § 1983 action, Plaintiff's claim requires three elements for liability: deprivation of a right, a causal connection between the actor and the deprivation, and state action. 42 U.S.C. § 1983.

Here, assuming Defendants were acting under state law,⁴ Plaintiff's claims are reviewed to determine if they allege facts indicating that defendants deprived him of a constitutional or

(A) the allegation of poverty is untrue; or

(B) the action or appeal --

(i) is frivolous or malicious;

(ii) fails to state a claim on which relief may be granted; or

(iii) seeks monetary relief against a defendant who is immune from such relief.

³ 28 U.S.C. § 1915A(b) provides:

(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.

⁴ Case law in the U.S. District Court for the District of Rhode Island has two opposing points of view on whether actions against employees of Wyatt should be brought pursuant to 28 U.S.C. § 1983 because the employees are state actors, or under *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971) because the employees are federal agents. Past decisions in this Court have found that complaints challenging conditions at Wyatt should be analyzed as actions under § 1983, *LaCedra v. Donald W. Wyatt Detention Facility*, 334 F. Supp. 2d 114, 140-142 (D.R.I. 2004) (see also *Matthew v. Central Falls Detention Facility*, No 9-253 (September 30, 2011 Report and Recommendation by Magistrate Judge Lincoln D. Almond) or alternatively, as *Bivens* actions, *Sarro v. Cornell Corrs., Inc.*, 248 F. Supp. 2d 52, 58 (D.R.I. 2003). The First Circuit Court of Appeals has not addressed the issue. For purposes of the instant case, this Court need not definitively explore that issue at this time.

federal statutory right.

C. Review of Claims

In essence, Mr. Rodriguez, a pre-trial detainee at Wyatt, argues that his federal constitutional due process rights were violated because he was assigned to H-Unit at Wyatt, a unit he alleges “houses detainees which are designated [a] security risk group.” (ECF No. 1 at 3.) He alleges that his assignment to the H-Unit was arbitrary and that he was not given notice and not afforded an opportunity to be heard. He alleges that he has a liberty interest in his assignment because as an H-Unit detainee he is deprived of “rehabilitation programs, work detail, and vocationals,” (*Id.*) has prolonged cell time, is “punished at whim” (*Id.* at 4), and “segregated from each other within the unit.” *Id.*

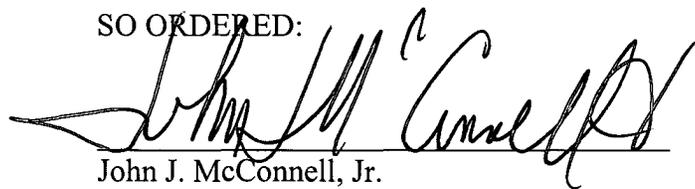
Mr. Rodriguez alleges that he has a liberty interest in not being assigned to H-unit and that his due process rights were violated because he was not afforded notice and an opportunity to be heard before being assigned there.⁵ *Wilkinson v. Austin*, 545 U.S. 209, 218 (2005). If Mr. Rodriguez is able to prove his claims (that he has a liberty interest in this assignment and that his due process rights were violated), then he has set forth a recognizable claim under existing U.S. Supreme Court precedent, and his complaint passes its initial review under 28 U.S.C. § 1915.

II. CONCLUSION

In view of the foregoing considerations, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), Mr. Rodriguez may proceed with his claims against these defendants. Plaintiff’s Application to Proceed *In Forma Pauperis* is GRANTED pursuant to separate order.

⁵ The Court must review pleadings of a *pro se* Plaintiff liberally. *Estelle v. Gamble*, 429 U.S. 97, 106 (1976).

SO ORDERED:

A handwritten signature in black ink, appearing to read "John J. McConnell, Jr.", written over a horizontal line.

John J. McConnell, Jr.
United States District Judge

July 26, 2011