

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

DELAINE J. BALDWIN, :  
 :  
 Plaintiff, :  
 : PRISONER  
 V. : CASE NO. 3:01CV1263 (RNC)  
 :  
 JOHN ARMSTRONG, :  
 :  
 Defendant. :

RULING ON MOTION TO DISMISS

Plaintiff, a Connecticut inmate, brings this action pro se and in forma pauperis pursuant to 42 U.S.C. § 1983 against the Commissioner of Correction. He alleges that the Department of Correction improperly calculated his earned good time credit on a previous sentence causing him to remain incarcerated for eighteen months beyond his lawful release date in violation of his rights under the Eighth and Fourteenth Amendments. He seeks an order requiring that eighteen months of good time credit be applied to his current sentence, plus compensatory and punitive damages for his previous allegedly unlawful imprisonment.

The Commissioner has moved to dismiss the complaint in its entirety. He contends that the plaintiff has failed to exhaust administrative remedies as required by the Prison Litigation Reform Act, 42 U.S.C. § 1997e(a), that the damages claim is barred by Heck v. Humphrey, 512 U.S. 477 (1994), and

that he is entitled to qualified immunity. I conclude that the plaintiff need not exhaust administrative remedies because none appears to be available through the Department's grievance procedure. I also conclude, however, that plaintiff's claim for eighteen months of good time credit to be applied against his sentence must be pursued through a petition for a writ of habeas corpus in state court, and that his damages claim is currently barred by the Heck rule. Accordingly, the motion to dismiss is granted.

#### Exhaustion of Administrative Remedies

The Commissioner argues that the PLRA prohibits an inmate from bringing a § 1983 suit against prison officials unless he first exhausts any existing administrative process. But the PLRA does not require exhaustion if the administrative process is not authorized to act on the inmate's allegations. Rather, it requires exhaustion of "such administrative remedies as are available." 42 U.S.C. § 1997e(a). An administrative remedy is not "available" in any sense of the word unless administrative officials are authorized by law to take some action in response to the inmate's complaint. As the Supreme Court recently noted, "Without the possibility of some relief, the administrative officers would presumably have no authority to act on the subject of the complaint, leaving the

inmate with nothing to exhaust." See Booth v. Churner, 532 U.S. 731, 736 n.4 (2001).<sup>1</sup>

Apart from asserting that the PLRA requires exhaustion in every case, the defendant offers no basis for requiring the plaintiff to exhaust administrative remedies. In particular, he cites no administrative rule or regulation that authorizes prison officials to act on the plaintiff's allegations. This omission is significant because Department of Correction Administrative Directive 9.6, which governs the grievance process available to Connecticut inmates, does not give prison officials general jurisdiction to address all types of claims. Rather, it lists in part 6.A matters that are grievable and in part 6.B matters that are not. Neither list refers to allegations concerning the calculation or application of good time credit under state law. In the absence of any argument by the Commissioner that the list of grievable matters set forth in Part 6.A encompasses such allegations, I conclude that the grievance process does not provide the plaintiff with an available remedy.

#### The Claim For Good Time Credit

The plaintiff's claim for an order requiring that

---

<sup>1</sup> In Booth, it was undisputed that the state grievance system had authority to take some responsive action with regard to the type of allegations at issue. See id.

eighteen months of good time credit be applied to his current sentence cannot be pursued by means of this action under § 1983. To obtain such a reduction in the length of his sentence, the plaintiff must file a petition for a writ of habeas corpus in state court. See Mack v. Varelas, 835 F.2d 995, 998 (2d Cir. 1987).<sup>2</sup>

#### The Claim for Damages

A number of courts have ruled that state prison officials may be held liable for damages under § 1983 for violating the Eighth Amendment if they prolong an inmate's incarceration beyond the term provided by applicable law. See Sample v. Diecks, 885 F.2d 1099, 1109-10 (3<sup>rd</sup> Cir. 1989); Haygood v. Younger, 769 F.2d 1350, 1354 (9<sup>th</sup> Cir. 1985) (en banc); Campbell v. Illinois Dep't of Corrections, 907 F. Supp. 1173, 1180 (N.D. Ill. 1995). Cf. Huang v. Johnson, 251 F.3d 65, 74-75 (2d Cir. 2001) (addressing juvenile's § 1983 claim for false imprisonment based on state officials' refusal to give him credit for jail time). However, I agree with the Commissioner that the Heck rule bars the plaintiff's damages claim at this time. To proceed on the damages claim while he

---

<sup>2</sup> In his prayer for relief, plaintiff states that he is "bringing both sec. 1983 suit and habeas corpus petition." However, a single complaint may not serve both purposes and plaintiff cannot pursue habeas relief here without going to state court first.

is still incarcerated, the plaintiff must first obtain a determination from a state court that his previous incarceration was prolonged past the lawful release date.<sup>3</sup>

Accordingly, the motion to dismiss is granted without prejudice to the plaintiff's right to pursue his claim for good time credit in state court, and without prejudice to his right to refile the § 1983 damages claim.<sup>4</sup>

So ordered.

Dated at Hartford, Connecticut this 12<sup>th</sup> day of September 2002.

---

Robert N. Chatigny

---

<sup>3</sup> It is arguable that the plaintiff can proceed with his damages claim, even without such a state court determination, once he is released from incarceration, at which point he will have no habeas remedy. See Huang, 251 F.3d at 74-75.

<sup>4</sup> In view of this disposition of the defendants' motion, I do not address the merits of his affirmative defense of qualified immunity. As a result, there is some risk that the pro se plaintiff will be left with the impression that I think the defense is invalid. That is not the case. On the contrary, the defendant argues with some force that he is entitled to qualified immunity because the plaintiff's right to be released was not clearly established until the Connecticut Supreme Court issued its decision in Rivera v. Commissioner of Correction, 254 Conn. 214 (2000). If the defendant were to prevail on this defense in the future, the plaintiff would have no remedy under § 1983 for the alleged violation of his constitutional rights. This possibility will be avoided if the plaintiff is successful in getting eighteen months of good time credit applied to his current sentence.

United States District Judge