

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

RICKY BUTLER,
Plaintiff

v.

DANIEL MARTIN, Warden, et al
Defendants

No. 1:19-cv-00313-MSM-LDA

MEMORANDUM AND ORDER

Mary S. McElroy, United States District Judge

This Amended Complaint (ECF No. 11-1) alleges that for approximately three months while Mr. Butler was in custody as a detainee at the Wyatt Detention Center in Central Falls, Rhode Island, he was restrained “24/7” unnecessarily and unlawfully through the use of harsh instruments such as waist chains, handcuffs, shackles and something he refers to as “black box,” resulting in substantial pain and significant physical injury. While he acknowledges that the prison’s initial conduct in restraining him was a reasonable response to his having harmed himself, he maintains that the restraints continued for many months after any danger of self-harm had passed. He alleges personal knowledge of the situation on the part of the individuals named, as well as requests by unnamed medical personnel to the jail’s administrators to remove the restraints which, he complains, were ignored. He maintains that the restraints were particularly unnecessary since he was always

monitored by several officers posted at his cell. He has sued the Warden Daniel Martin, the Chief of Security Michael Nessinger, the doctor, Dr. Blanchette, a Counselor Nicole Rodriguez, and the Central Falls Detention Facility Corp. (“CDFC”). (ECF No. 11-1). Defendants Martin and Nessinger are alleged to have directed the restraints personally and Mr. Butler claims that Dr. Blanchette as the jail’s physician sanctioned the restraints.

Before the Court is a Magistrate Judge Report and Recommendation (“R&R”) (ECF No. 16) which made several recommendations with respect to two motions: defendants’ Motion to Dismiss (ECF No. 9) and Mr. Butler’s Motion to Amend/Correct his Complaint (ECF No. 11). The R&R recommended denial of the first as moot and recommended the granting of the second. In addition, there are other post-R&R matters before the Court, specifically Ms. Rodriguez’ separate Motion to Dismiss (ECF No. 17) and Mr. Butler’s Motion to Voluntarily dismiss two defendants (including Ms. Rodriguez) and one of his claims for relief. (ECF No. 26). Finally, the Magistrate Judge reviewed the Amended Complaint pursuant to 28 U.S.C. § 1915(e)(2) to determine whether it contained sufficient merit to proceed.

1. Mr. Butler’s Motion to Voluntarily Dismiss (ECF No. 26) his action against CDFC and Ms. Rodriguez, and to dismiss his claim of an equal protection violation is GRANTED.

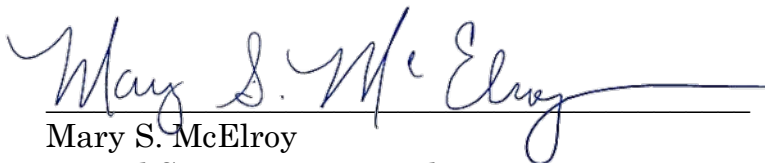
2. Ms. Rodriguez’ Motion to Dismiss (ECF No. 17) is DENIED as moot.

3. Mr. Butler’s Motion to Amend/Correct his Complaint (ECF No. 11) is GRANTED.

4. The defendants' Motion to Dismiss the original Complaint (ECF No. 9) is, as recommended by the R&R, DENIED as moot.

5. As pared down by the above, I accept and adopt the Magistrate Judge's R&R (ECF No. 16) permitting the Amended Complaint to go forward against defendants Martin, Nessinger and Blanchette in their individual capacities. I find it meets the standard laid down in 28 U.S.C. § 1915(e)(2). Mr. Butler has alleged significant injury resulting from what he terms the "harsh restraints." *Hudson v. McMillian*, 503 U.S. 1, 10, 112 S.Ct. 995, 1000, 117 L.E.2d 156 (1992) (an injury that is more than *de minimus* is sufficient in Eighth Amendment context of sentenced prisoner if the use of force is wanton and unnecessary). He has alleged facts suggesting that while the restraints were initially reasonable and warranted, they became objectively unreasonable, thus constituting excessive force. *Kingsley v. Hendrickson*, 576 U.S. 389, 392, 135 S.Ct. 2466, 2470, 192 L.Ed.2d 416 (2015); *Miranda-Rivera v. Toledo-Davila*, 813 F.3d 64, 70 (1st Cir. 2016).

IT IS SO ORDERED:


Mary S. McElroy
United States District Judge

September 21, 2020