

[Cite as *Rivers v. Warren Correctional Inst.*, 126 Ohio Misc.2d 12, 2003-Ohio-5793.]

RIVERS

v.

WARREN CORRECTIONAL INSTITUTE.

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Court of Claims of Ohio.

No. 2003-04767-AD.

Decided Oct. 8, 2003.

Willie T. Rivers, pro se.

Gregory C. Trout, Chief Counsel, Department of Rehabilitation and Correction, for
defendant.

DANIEL R. BORCHERT, Deputy Clerk.

FINDINGS OF FACT

{¶1} Plaintiff, Willie T. Rivers, an inmate incarcerated at defendant, Warren Correctional Institution, related that the unit manager assigned him to a cell where one of his cellmates suffered from hepatitis C.

{¶2} Plaintiff contended that his cellmate posed an unreasonable health risk to him. Plaintiff alleged he has suffered depression, lack of sleep, anxiety, and other mental anguish because he was assigned to a cell where his cellmate had hepatitis C. Plaintiff stated that he was assigned to

this cell for a period of two weeks, September 19-October 3, 2002. Plaintiff asserted claims under the Eighth and Fourteenth Amendments to the United States Constitution. Plaintiff claimed that he suffered damages in the amount of \$2,500, based on defendant's act related to cell assignment. Plaintiff did not offer any evidence to prove that he was subjected to an unreasonable risk of harm of contracting hepatitis C due to the mere fact that he was assigned to a cell where one of the inhabitants suffered from that disease.

CONCLUSIONS OF LAW

{¶3} Plaintiff himself filed this claim seeking redress for alleged violations of his constitutional rights under the Eighth and Fourteenth Amendments. Accordingly, plaintiff's claim, based on alleged violations of his constitutional rights, is dismissed. This court lacks jurisdiction to hear a claim to the extent that it asserts constitutional violations. *Gersper v. Ohio Dept. of Hwy. Safety* (1994), 95 Ohio App. 3d 1. Constitutional claims and claims based on Section 1983, Title 42, U.S.Code are not actionable in this court. *Bleicher v. Univ. of Cincinnati College of Medicine* (1992), 78 Ohio App. 3d 302. Plaintiff's claims flowing from the cell assignment are dismissed.

{¶4} Having considered all the evidence in the claim file, and, for the reasons set forth in the memorandum decision filed concurrently herewith, plaintiff's case is DISMISSED. Court costs are assessed against plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

Cause dismissed.
