

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

CHARLES A. BENSON,)	
)	
Plaintiff,)	
)	
v.)	No. 2:19-cv-00065-JRS-MJD
)	
RICHARD BROWN,)	
Defendant.)	

**ENTRY GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT
AND DIRECTING ENTRY OF FINAL JUDGMENT**

For the reasons explained in this Entry, the motion for summary judgment filed by defendant Richard Brown, dkt. [32], is **granted**.

I. Background

Indiana prisoner Charles Benson brings this 42 U.S.C. § 1983 civil rights action against four defendants. Claims against three of the defendants were dismissed at screening. Dkt. 8. The remaining defendant, Warden Richard Brown, has moved for summary judgment.

In his amended complaint, Mr. Benson alleges that the conditions of his confinement in disciplinary restrictive housing in the Security Control Unit (SCU or SHU) at Wabash Valley Correctional Facility (Wabash Valley) violated his Eighth and Fourteenth Amendment rights. Dkts. 8, 15, 16. The summary judgment motion is fully briefed and ripe for resolution.

II. Summary Judgment Standard

Summary judgment should be granted "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). "Material facts are those that might affect the outcome of the suit under applicable substantive law." *Dawson v. Brown*, 803 F.3d 829, 833 (7th Cir. 2015) (internal quotation omitted).

"A genuine dispute as to any material fact exists 'if the evidence is such that a reasonable jury could return a verdict for the nonmoving party.'" *Daugherty v. Page*, 906 F.3d 606, 609-10 (7th Cir. 2018) (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)). The Court views the facts in the light most favorable to the non-moving party and all reasonable inferences are drawn in the non-movant's favor. *Barbera v. Pearson Educ., Inc.*, 906 F.3d 621, 628 (7th Cir. 2018). The Court cannot weigh evidence or make credibility determinations on summary judgment because those tasks are left to the fact-finder. *Johnson v. Advocate Health and Hosps. Corp.* 892 F.3d 887, 893 (7th Cir. 2018).

III. Discussion

A. Undisputed Facts

The following statement of facts was evaluated pursuant to the standards set forth above. That is, this statement of facts is not necessarily objectively true, but as the summary judgment standard requires, the undisputed facts and the disputed evidence are presented in the light reasonably most favorable to Mr. Benson as the non-moving party with respect to the motion for summary judgment. *See Reeves v. Sanderson Plumbing Prods., Inc.*, 530 U.S. 133, 150 (2000).

At all times relevant to this lawsuit, Mr. Benson was confined at Wabash Valley. He was transferred there on June 29, 2018. Dkt. 32-1, 11:12-14 (Benson Dep.).

Since 2016, Mr. Benson has been found guilty on three different conduct reports for assaults on Indiana Department of Correction (IDOC) staff. *Id.*, 15:17-16:12. Sanctions for each of the assaults on staff included time in disciplinary segregation in the SHU. *Id.*, 16:15-17:9. Since being placed in the SHU at Wabash Valley, Mr. Benson has received five or six additional conduct reports. *Id.*, 18:6-9. One of the conduct reports Mr. Benson received in the SHU was for threatening

IDOC staff. *Id.*, 18:17-25. As of December 5, 2019, Mr. Benson was scheduled to be in disciplinary segregation until October 16, 2020. *Id.*, 19:11-14.

1. Temperature in cell

Mr. Benson's cell includes a bed, blankets, pillow, sink, toilet, television, desk, chair, and a window that looks out into the range. Dkt. 32-1, 35:20-37-5. Mr. Benson's bed is long enough that he can lie flat with room to spare. *Id.*, 35:20-36:4.

"[F]or a little while" Mr. Benson's cell "was kind of cold." *Id.*, 28:7-13. During the winter of 2018-2019, Mr. Benson experienced the most issues with cold temperatures in his cell. *Id.*, at 41. Cold air was coming out of the vent instead of hot air. This issue was remedied by the facility after approximately one and a half to two months. *Id.*, 42:16-43:10. More than once, Mr. Benson's hands have gotten cold enough that a nurse has had difficulty getting a pulse or temperature reading from his finger. *Id.*, 39:4-25.

Mr. Benson has also experienced a cold cell during the summer because of the air conditioning. *Id.*, 40:21:41-7. He submitted a request for interview form to the Warden's office on July 7, 2019, complaining about air circulation on the range. Defendant Brown responded on July 11, 2019, stating parts had been ordered and that the issue would be addressed soon. Dkt. 32-3 at ¶ 4.

Mr. Benson's cell contains two vents. Dkt. 32-1, 37:6-7. One of the vents in his cell sucks in air, while the other vent blows air into the cell. *Id.*, 37:12-23. Mr. Benson notices heat come in and out of his cell. *Id.*, 39:8-10.

At one point during Mr. Benson's confinement in the SHU, there was a natural gas smell coming through one of the vents in his cell. *Id.*, 38:3-8. He spoke with a grievance specialist about the smell and the situation was addressed. *Id.*, 38:13-25.

2. Clothing

When Mr. Benson was transferred to the SHU, he was issued one jumpsuit, three t-shirts, three pairs of boxers, three pairs of socks, two towels, and a winter hat. Dkt. 32-1, 43:25-44:8. He has been provided with slip on shoes. *Id.*, 65:18-66:7. Mr. Benson had previously requested a coat and was told to contact the property officer. *Id.*, 46:9-18. When he wrote the property officer about a coat, he did not get a response. *Id.*, 47:6-12. But after talking with Sergeant Busby he received a coat that day, between the end of September and the end of November 2018. *Id.*, 44:19-46:8. He can swap out his clothes for new ones every six months or so. *Id.*, 48:11-23.

Mr. Benson's clothes are laundered twice a week. *Id.*, 49:15-16. Mr. Benson is allowed to order thermal clothing and gloves from commissary. *Id.*, 28:21- 23; 59:19-60:7.

3. Food, Commissary, and Hygiene

Mr. Benson is provided three meals a day. Dkt. 32-1, 34:9-25. He can order commissary items from the form titled IDOC Disciplinary Form 06E-WVC (Disciplinary Form). *Id.*, 50:6-22; dkt. 32-2; dkt. 32-3 at ¶ 5. Offenders can order deodorant, toothpaste, nail clippers, toothbrushes, shampoo, lotion, thermal clothing and gloves using the Disciplinary Form, but they are what Mr. Benson considers "cheap" or "generic" brands. Dkt. 32-1, 51:13-24; 52:12; 53:17-25; 54:2-4; 59:19-60:7; dkt. 32-2. Offenders in disciplinary segregation are not permitted to order from the same commissary forms as offenders in administrative segregation as a way to incentivize good behavior and deter conduct that results in placement in disciplinary segregation. Dkt. 32-3 at ¶ 7.

Mr. Benson only has access to razors and toenail clippers when he showers. He is permitted to keep other hygiene items in his cell. Dkt. 32-1, 58:23-59:3. Mr. Benson showers every other day. *Id.*, 59:4-5.

4. Programming

Mr. Benson has been referred to participate in the ACT Program, which helps offenders transition from segregation units back to general population. Dkt. 32-1, 61:10-21. He is permitted to attend inside and outside recreation. *Id.*, 66:14-20. He has the option of staying in his cell instead of attending recreation. *Id.*, 68:4-11.

B. Analysis

Mr. Benson alleges that he is confined in his cell 23 hours a day without the ability to order certain hygiene, food, shoes, and clothing items from commissary or to participate in educational or recreational programs because he is in disciplinary segregation. Dkt. 16 at 4; dkt. 32-1 at 31. He alleges that he has been confined under harsh conditions in a small, poorly ventilated, cold cell. *Id.* Mr. Benson has not been afforded the same privileges as offenders in administrative segregation. Dkt. 16 at 3; dkt. 32-1 at 30-32. He brings his claims under the Eighth Amendment and the Fourteenth Amendment due process and equal protection clauses. The Court turns to the Eighth Amendment claims first.

1. Eighth Amendment Claims

The Eighth Amendment's proscription against cruel and unusual punishment protects prisoners from the "unnecessary and wanton infliction of pain" by the state. *Hudson v. McMillian*, 503 U.S. 1, 5 (1992) (citation and internal quotations omitted). Pursuant to the Eighth Amendment, prison officials have the duty to provide humane conditions of confinement: "prison officials must ensure that inmates receive adequate food, clothing, shelter, and medical care, and must take reasonable measures to guarantee the safety of the inmates." *Farmer v. Brennan*, 511 U.S. 825, 832 (1994) (internal quotation omitted). To succeed on a conditions-of-confinement claim under the Eighth Amendment, a plaintiff must demonstrate that 1) he was incarcerated under conditions



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