IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

BRANDEN SINGLETON,	)	
	)	
Plaintiff,	)	**Civil Action No. 7:02cv00900**
	)	
v.	)	**Memorandum Opinion**
	)	
BLUE RIDGE REGIONAL JAIL AUTHORITY,	)	
	)	**By: Samuel G. Wilson**
Defendant.	)	**Chief United States District Judge**
	)	

Plaintiff, Branden Singleton, brings this action, by counsel, for damages pursuant to 42 U.S.C. § 1983 with jurisdiction vested under 28 U.S.C. § 1343 against Blue Ridge Regional Jail Authority ("the Authority"), by its Administrator, Christopher R. Webb. Singleton alleges that prison officials failed to protect him from an inmate who threatened to attack him and who eventually beat Singleton severely. This matter is before the court on the Authority's motion for summary judgment. The court finds that Singleton failed to marshal any evidence creating a genuine issue of triable fact, and accordingly, the court grants the Authority's motion.

I.

In August 2000, Singleton was detained at the Campbell County Adult Detention Center ("Detention Center") awaiting trial for felony destruction of property.[1] Each housing unit within the Detention Center consists of individual cells that open to a common living area. Singleton's housing unit contained a television for all of the inmates to share, and the inmates in Singleton's unit "had worked out a routine" for choosing the programs everyone would watch each day. (Singleton Dep. at 94).

[1] The Blue Ridge Regional Jail Authority operates the Detention Center.

On August 26, 2000, Singleton and several inmates planned to watch "Smackdown!," a weekly wrestling program. Vernon Rivers, a fellow inmate, refused. (Id. at 94). Rivers, who had been convicted of several violent assaults and was awaiting trial for another, argued with Singleton over which program to watch, but the argument did not escalate into a physical confrontation. (Id. at 109; Palmer Aff. ¶ 3). One of the guards on duty, Sgt. Palmer heard their voices and immediately radioed for assistance. (Palmer Aff. ¶ 3). Palmer and Corporal Lindsey, who responded to Palmer's call for back up, stopped the argument and locked all of the unit's inmates in their cells. (Singleton Dep. at 109). Palmer privately spoke to Rivers while Lindsey privately spoke to Singleton. Then the two switched. (Palmer Aff. ¶ 4). During these conversations, Singleton alleges that he told Palmer that Rivers threatened to beat him up at 9:00 p.m. on August 31, 2000, the next time that "Smackdown!" would air. (Amended Complaint ¶ 6).

Palmer and Lindsey state that neither Singleton or Rivers indicated that Rivers had threatened Singleton in any way. (Palmer Aff. ¶ 8; Lindsey Aff. ¶ 4). Neither Singleton nor Rivers appeared to act in a manner suggesting future difficulty. (Palmer Aff. ¶ 3). Singleton assured the guards that there would be no more arguments if Rivers agreed to abide by the majority's television routine, and Rivers agreed to do so. (Palmer Aff. ¶ 6; Lindsey Aff.¶ 2). Palmer and Lindsey would have locked the inmates in their cells to prevent further confrontation, but neither Singleton nor Rivers wanted to be "locked down." Id. Palmer and Lindsey then spoke to the entire unit and informed them that if there were any more disputes over the television, they would remove it. (Palmer Aff. ¶ 7). Singleton and Rivers promised to behave and agreed to notify one of the officers if there were any problems. (Lindsey Aff. ¶ 3).

For the next week Singleton and Rivers "kept their distance" from each other. (Singleton

Dep. at 109-10). During that week, Singleton asked officer Weeks whether the argument on August 26 had been recorded in the jail's log book. Singleton never mentioned to Weeks that Rivers threatened to attack him. (Id. at 112).

On August 31, 2000, the guards on duty, officers Harris and Smith, patrolled Singleton's unit every thirty minutes, as required by the Authority's policy. (Id. at 105, 127). Singleton claims that he told them during one of their patrols, that they should be present in the unit at 9:00 p.m. but he did not give a reason. (Id. at 105). Harris and Smith deny that Singleton warned them or gave them notice of an impending assault. Both officers were on duty earlier in the week, including several days immediately prior to the 31st, but Singleton never mentioned a possible threat. (Smith Aff. ¶ 4; Harris Aff. ¶ 2).

From 8:00 to 9:00 p.m. that evening, the inmates watched "Smackdown!" without incident. They had planned to watch it again from 9:00 to 10:00 p.m. At 9:00 p.m., however, Rivers changed the channel. Rivers and another inmate began arguing over the television. After about five minutes, at 9:05 p.m., Singleton realized that Rivers had completely stopped watching the tv and turned the channel back to "Smackdown!" (Singleton Dept. at 128).

Rivers turned the television once again. When Singleton reached to turn it back, Rivers stepped on Singleton's foot. (Id. at 129. Singleton pushed Rivers off his foot and Rivers took several swings at Singleton. (Id. at 131). Singleton dodged some of the punches and put Rivers in a headlock trying to hold Rivers until he calmed down. (Id. at 131). Singleton expected the fight to end after a minute or two, but Rivers wiggled out of Singleton's arms and began beating Singleton with an electrical extension cord until Singleton lost consciousness. (Exh. 2 to Singleton's Dep.). According to Singleton, Rivers paused for a few minutes, returned and beat Singleton for several more minutes, paused a second time, and then returned a final time to

continue the attack. Id. Another inmate, Michael Bush, interrupted and started fighting Rivers until officers Harris and Smith broke up the fight. Id.

Meanwhile, guards in the main control room heard the commotion and radioed other officers to respond to the "banging noises." (Shelton Aff.). Harris arrived in Singleton's housing unit first and saw Rivers and Bush fighting. (Harris Aff. ¶ 3). Harris stopped the fight and immediately radioed Smith for help, who was already on her way. (Harris Aff. ¶ 3; Smith Aff. ¶ 3). They saw Singleton lying on the floor in another inmates's cell with injuries to his eye and nose. Id. Smith took Singleton to the medical department for treatment at about 9:14 p.m.

According to Singleton's unverified amended complaint he suffered multiple head injuries, permanent injuries to his eye, and bruises to his foot and torso.[2] Singleton alleges that the Authority's policies and practices proximately caused a failure to protect Singleton from Rivers' assault. Specifically, he alleges that the Detention Center improperly housed Singleton, a nonviolent detainee, with Rivers, a repeat violent offender; the guards ignored Singleton's warning that Rivers would assault Singleton on a specific date and time; the guards were unable to adequately monitor the actions inside the housing unit; the guards ignored the commotion generated by the assault and Singleton's cries for help; and the Detention Center permitted ready access to a heavy electrical cord that Rivers used during the assault.

II.

Singleton fails to produce any evidence of an official policy or custom fairly attributable to the Authority that proximately caused the deprivation of Singleton's constitutional rights. Jordan v. Jackson, 15 F.3d 333, 338 (4th Cir. 1994). Viewing the evidence in the light most

[2] On November 25, 2002, this court dismissed Singleton's original complaint pursuant to Fed. R. Civ. P. 12(b)(6), but permitted him to file an amended complaint that would adequately state a claim upon which relief could be granted.

favorable to Singleton, the court finds that the Authority has effectively carried its burden by demonstrating the absence of a genuine issue of material fact. Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986). Although Singleton alleges that he informed officer Palmer that Rivers would attack him on August 31 at 9:00 p.m., the record contains no evidence to support this claim. It is well established that on motion for summary judgment, the adverse party cannot rest on its pleadings and mere conclusory allegations, but rather Federal Rule of Civil Procedure 56 permits the entry of summary judgment against a party who fails to produce *significantly probative evidence* that establishes the existence of an element essential to that party's case. Matsushita Elec. Co. v. Zenith Radio Corp., 475 U.S. 574, 586 (1986); Celotex, 477 U.S. at 322-23; Abcor Corp. v. AM Int'l, Inc., 916 F.2d 924, 929 (4th Cir. 1990). Singleton failed to make any showing that Rivers ever threatened him or that he ever told Palmer, or anyone else, that an assault might take place. Thus, Singleton failed to demonstrate that the guards ignored his warnings.[3]

The evidence instead shows no connection between the Authority's policies and practices and Singleton' altercations with Rivers. If Singleton had indeed feared for his safety, the guards were available to speak with Singleton privately, but Singleton never availed himself of the opportunity nor filed a request or grievance during the week leading up to Rivers' assault. (Palmer Aff. ¶8; Lindsey Aff. ¶4; Smith Aff. ¶4; Harris Aff. ¶¶2, 4). Singleton and Rivers both assured Palmer and Lindsey that there would be no further problems in order to avoid being locked down or having the television removed. Id. Under these circumstances, the guards had

[3]Singleton's brief in opposition argues that there are photographs and witnesses that would prove his version of the facts, but he has not submitted these photographs nor offered statements of these witnesses to the court. Singleton also argues that the Authority submitted only excerpts of his deposition testimony and that other portions of his deposition support his claims, but he never submitted his own excerpts or offered the deposition transcript in its entirety.

no reason to believe that Singleton faced any risk of harm, and therefore, could take no preventive action.

Singleton alleges that once Rivers began to argue with the other inmates and became violent, the guards should have intervened more quickly than they did. He claims that the Detention Center should have monitored the housing unit with audio and video surveillance equipment. (Singleton's Amended Complaint ¶ 9). Yet, any inmate, including Singleton, could have summoned security, but did not. (Singleton Dep. at 88). In fact, the evidence demonstrates that security discovered the dispute on its own, responded to the noise, ended the confrontation, locked down the inmates, and transported Singleton to the medical department in less than ten minutes. (Smith Aff. ¶3; Exh. A to Shelton Aff.). Furthermore, neither Singleton nor the Detention Center's administrator, Christopher R. Webb, have knowledge of any other time that an inmate used an electrical cord as a weapon. (Singleton Dep. at 138; Webb Aff. ¶ 8). The Detention Center has now removed these types of cords from the housing units. (Webb Aff. ¶8)

According to the Authority, it requires correctional officers to protect the inmates whenever the use of force is anticipated, to remain alert, and to act immediately if there is reason to believe that an inmate is at risk of harm. (Webb Aff. ¶ 3; Palmer Aff. ¶8; Lindsey Aff. ¶4; Harris Aff. ¶ 4). Singleton has marshaled nothing to the contrary. He has produced no evidence that the Authority's policies or practices resulted in Rivers' attack against Singleton. Instead, his own allegations as borne out by the uncontradicted evidence show simply that he was on the losing end of a fight. Accordingly, the court grants the Authority's motion for summary judgment.

IV.

Singleton moves for an extension of the discovery period and for a continuance. The

court sees little reason to grant these motions because Singleton has had ample opportunity to conduct discovery and to build his case. Both parties have had since August 9, 2002 until the close of the discovery period on February 28, 2003 to conduct discovery. In addition, this court dismissed Singleton's complaint on November 25, 2002 pursuant to Fed. Rule Civ. P. 12(b)(6) but allowed him time to collect additional evidence in order to file an amended complaint that adequately stated a claim upon which relief could be granted. Therefore, the court sees no reason to delay its ruling on the motion for summary judgment in order to grant Singleton an extension of time or a continuance, and therefore, denies the same.

V.

For the reasons stated above, the court grants the Authority's motion for summary judgment and denies Singleton's motion for an extension of the discovery period and for a continuance. An order in accordance with this memorandum opinion will be entered this day.

ENTER this 10th day of April, 2003.

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CHIEF UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

BRANDEN SINGLETON,	)	
	)	
Plaintiff,	)	**Civil Action No. 7:02cv00900**
	)	
v.	)	**Final Order**
	)	
BLUE RIDGE REGIONAL JAIL AUTHORITY,	)	
	)	**By: Samuel G. Wilson**
Defendant.	)	**Chief United States District Judge**
	)	

In accordance with the court's memorandum opinion entered this day, it is **ORDERED** and **ADJUDGED** that Blue Ridge Regional Jail Authority's motion for summary judgment is **GRANTED** and that Singleton's motions for an extension of the discovery period and for a continuance are **DENIED**. It is further **ORDERED** that this action be stricken from the docket of this court.

ENTER this 10th day of April, 2003.

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CHIEF UNITED STATES DISTRICT JUDGE