

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION**

RAFIU ABIMBOLA,)	
# A72-852-210)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 4:04-cv-01017-rbp-hgd
)	
CRAIG ROBINSON, et al.,)	
)	
Defendants.)	

**DEFENDANTS’ OBJECTIONS TO
PLAINTIFF’S REPLY TO DEFENDANTS’ RESPONSE**

COME NOW Sheriff James Hayes and Wes Williamson, Defendants in the above-styled cause, and lest they be charged with waiving any objection to the “facts” in Plaintiff’s Declaration, submit their disputes as to certain statements by Plaintiff in his Declaration filed with his Reply to Defendants’ Response to Motion for Preliminary Injunction.

I. FACTUAL OBJECTIONS

Plaintiff states that he has no place to exercise, that running is forbidden in the common area. However, Chief Hassell states that the common area is available for running and there is no smoking in that area. With stairways, six laps equals one mile. Plaintiff has more than enough time to use that area for exercise. (Ex. AA, Hassell aff., ¶ 2.)

Plaintiff contends that the playing of basketball is forbidden. However, Chief Hassell explains that the basketball was removed temporarily because inmates were kicking it and damaging lights on the recreation yard. (Ex. AA, Hassell aff., ¶ 3.)

Plaintiff contends that Sergeant Blythe told him that he would not be transferred from the Etowah County Detention Center. However, Sergeant Blythe states that he does not remember telling him that, and if he did tell Plaintiff something to that effect, it would have been based on information he had received from a deportation officer. Sergeant Blythe and Chief Hassell have both approached ICE supervisor, Jerry Smith, and requested that Plaintiff be transferred, but no action has been taken. (Ex. AA, Hassell aff., ¶4; Ex. BB, Blythe aff., ¶ 3.)

Plaintiff claims that Sergeant Blythe went to Plaintiff's cell with Perry Zaner and Terry Nelson to ask if Plaintiff filed grievances on behalf of other inmates and detainees, but Sergeant Blythe states that he never went to Plaintiff's cell with those two men. (Ex. BB, Blythe aff., ¶ 4.)

Plaintiff claims the television was taken out of the common area. However, Chief Hassell states that the television was never taken out of the common area. At one time, there were two televisions in the dayroom, but Chief Hassell received complaints about the volume of sound, so he removed one of them. He has received no further complaints and thought the problem was resolved. (Ex. AA, Hassell aff., ¶ 5.)

Plaintiff claims he was sent to segregation on the “pretext” that his cell was not clean. Sergeant Blythe states that Plaintiff was sent to segregation because his unclean cell, full of trash and paper, has been an ongoing problem and a fire hazard. Plaintiff refused to clean his cell, so he was given minimum sanctions in a disciplinary action. Plaintiff was allowed to take any legal paperwork he needed with him to segregation, he continued to receive his mail, and he was allowed adequate time to do his work in the law library while in segregation. He was not allowed to physically go to work each day in the law library. (Ex. BB, Blythe aff., ¶ 5; Ex. AA, Hassell aff., ¶ 6.)

Detainees like Machado are transferred at Chief Hassell’s request because they pose a security problem, like attempting to bribe officers to bring in contraband. As is the prerogative of ICE, Mr. Banks was transferred by immigration officials.

II. CONCLUSION

Defendants object to the factual statements in Plaintiff’s Reply to Defendants’ Response to Motion for Preliminary Injunction.

Respectfully submitted this the 20th day of November 2006.

s/Winthrop E. Johnson

WINTHROP E. JOHNSON, Bar No.
JOH086

Attorneys for Defendants Wes Williamson
and James Hayes

WEBB & ELEY, P.C.

7475 Halcyon Pointe Drive (36117)

Post Office Box 240909

Montgomery, Alabama 36124

Telephone: (334) 262-1850

Fax: (334) 262-1889

E-mail: ccornelius@webbeley.com

CERTIFICATE OF SERVICE

I hereby certify that on this the 20th day of November, 2006, I have electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and that I have mailed a true and correct copy of the foregoing by United States Mail, postage prepaid, to the following non-CM/ECF participant:

Rafiu Abimbola

A72-852-210

Etowah County Detention Center

827 Forrest Avenue

Gadsden, AL 35901

s/Winthrop E. Johnson

OF COUNSEL