

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 97-1958

John Patrick Murphy,

Appellant,

v.

Erik Skon; Walter Sass; Frank W.
Wood; Michael Parks; Dennis Benson;
Tim Lanz; Jessica Freer; David
Wilmes; Steve Lydon; Ken Carlson,
Dr.; Richard L. Hagelberger,

Appellees.

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Appeal from the United States
District Court for the
District of Minnesota.

[UNPUBLISHED]

Submitted: May 7, 1998

Filed: June 18, 1998

Before BOWMAN, Chief Judge, WOLLMAN, and MORRIS SHEPPARD ARNOLD,
Circuit Judges.

PER CURIAM.

John Patrick Murphy appeals from the District Court's¹ grant of summary judgment in favor of defendant prison officials in this 42 U.S.C. § 1983 (1994) action challenging his conditions of confinement. We affirm.

In August 1994, Murphy was transferred from the Minnesota Correctional Facility at Stillwater to the maximum security facility at Oak Park Heights after he was suspected of making threatening telephone calls from the prison. In September 1994, Murphy was charged in a criminal complaint in state court, and he received a disciplinary violation report for the alleged threatening calls. Murphy requested a continuance of the scheduled disciplinary hearing for the purpose of preparing a defense. Defendants contended that Murphy did not rescind his request for a continuance. A mistrial was declared in Murphy's criminal trial and the charges were subsequently dismissed in September 1996. Murphy had a hearing on the disciplinary violation report in May 1997 and he was sentenced to 720 days in segregation.

Murphy alleged in this lawsuit that he was transferred without a hearing, subjected to double jeopardy by the criminal complaint and disciplinary charges for the same conduct, detained in segregation on "pre-hearing detention" for approximately 32 months without a hearing in violation of due process, subjected to sexual harassment by a prison guard, denied adequate mental health care, and subjected to cruel and unusual punishment by his placement in a modified/strip cell for four days and a modified housing unit for four months.

The District Court granted defendants summary judgment, concluding that Murphy's transfer did not implicate due process rights; that there was no double

¹The Honorable Paul A. Magnuson, Chief Judge, United States District Court for the District of Minnesota, adopting the report and recommendations of the Honorable Arthur J. Boylan, United States Magistrate Judge for the District of Minnesota.

jeopardy violation; that, based on his request for a continuance, Murphy received all the process he was due regarding his disciplinary hearing; and that Murphy failed to support his Eighth Amendment claims.

We have carefully reviewed the entire record, and we affirm on the basis of the District Court's opinion.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.