

IN THE SUPREME COURT OF THE UNITED STATES

SHARIFF BUTLER and JEREMEY MELVIN
Petitioners

: CASE NO. _____
: (U.S. Court of Appeals No. 23-1761)

V.

JOHN E. WETZEL, et al.
Respondents

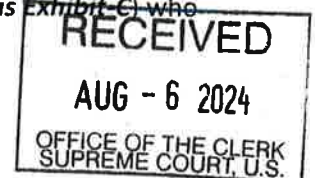
:
:
:
:
:
:
:

MOTION FOR AN EXTENSION OF
TIME TO FILE A PETITION FOR WRIT
OF CERTIORARI PURSUANT TO
SUPREME COURT RULE ("S.C.R.") 30

AND NOW, Petitioner, Shariff Butler, ("Petitioner" hereinafter) on behalf of himself, pro se, move to file this Motion For An Extension of Time To File A Petition For Writ of Certiorari Pursuant To Supreme Court Rule ("S.C.R.") 30.2 & 30.3 in the above captioned case.

Petitioner, pro se, is requesting the permission from This Court to file this motion due to the extraordinary circumstances that has currently taken place unbeknownst to Petitioner's sense of timing concerning his expectations of any court appearances based on an appellate review of his criminal conviction resulting in a commitment order and court date being scheduled to which has placed Petitioner on an Authorized Transfer Absence ("ATA") leave from his designated State Correctional Institution ("SCI") of SCI-Huntingdon to the temporary transfer of SCI-Phoenix. See **Docket Sheet Entry Disclosing Commitment Order and Court Schedules as Exhibit-A, and; Department of Corrections ("D.O.C.") Hanbook Policy Rules on "ATA" Transfer as Exhibit-B.**

Petitioner asserts that due to said temporary transfer to SCI-Phoenix he is unable to correspond with his co-plaintiff/co-appellant and who is now his Co-Petitioner to the intended writ of certiorari filing Jeremey Melvin GB-7532 (See *U.S. Court of Appeals En Banc Hearing Response as Exhibit-C*) who



is still currently housed at SCI-Huntingdon to which our separation places a hindrance on jointly filing our claims with This Court as we are unable to complete required documents within a petition for writ of certiorari that demands signatures and other pertinent information from both parties.

Petitioner's transfer date was on *July 9, 2024* and due to his initial court date of *July 15, 2024* being cancelled and/or postponed to August 15, 2024 due to a health scare/issues with the presiding appellate court judge in his pending criminal matter, he is to remain at the transferred facility of SCI-Phoenix until his next scheduled court date (*i.e., August 15, 2024*). See **Documentation Disclosing Petitioner's Transfer as Exhibit-D.**

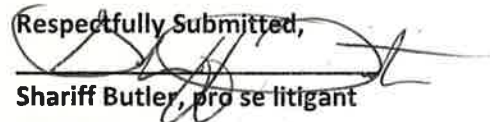
Petitioner asserts that the named respondents in their entirety for this case matter consist of John E. Wetzel; Shirley Moore Smeal; Melissa Roberts; Diane Kashmere; Tabb Bickell; Michael Wenerowicz; Dorina Varner; Keri Moore; Kevin Kauffman; Lonnie Oliver; John Thomas; Byron Brumbaugh; William S. Walters; Brian Harris; Mandy Sipple; Anthony E. Eberling; Bruce Ewell; Constance Green; Robert Bilger; Paula Price; Michelle Harker; Andrea Wakefield; George Ralston; Allan Stratton; John Barr; Joshua Reed and Trevor Emigh. (See ***Exhibit-C attached hereto***).

Petitioner is an imprisoned pro se litigant (including Co-Petitioner Jeremy Melvin) who is unable to control certain circumstances in receiving an equitable right to an appellate process in accordance with Supreme Court Rule **13** allotted amount of time given to file an petition for writ of certiorari. **McNeil v. United States**, 508 U.S. 106, 113(1993), has established; "The Supreme Court has insisted that the pleading prepared by prisoners who do not have access to counsel be liberally construed and [has] held that some procedural rules must give way because of the unique circumstances of incarceration." See **Haines v. Kerner**, 404 U.S. 519, 520(1972) and **Estelle v. Gamble**, 429 U.S. 97, 106(1976).

WHEREFORE, for the aforementioned reasons, Petitioner prays that this humble request by way

of a motion for an extension of time to file a petition for writ of certiorari is granted for an additional **forty-five (45) days** from the date of this filing by the Justice(s) of This Court in the interest of justice.

DATE: 7/30/2024

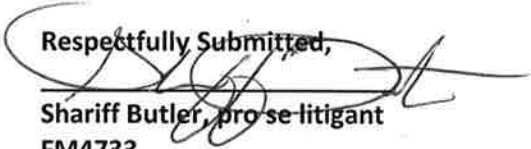
Respectfully Submitted,

Shariff Butler, pro se litigant
FM4733
1200 Mokyhic Drive
Collegeville, Pa 19426

VERIFICATION

Petitioner hereby certify that the following information is true and correct pursuant to 28 U.S.C. § 1746 to the best of my knowledge and belief.

Petitioner understands that any false statement answer to any question in this verified statement will subject me to penalties provided by misdemeanor.

DATE: 7/30/2024

Respectfully Submitted,

Shariff Butler, pro se litigant
FM4733

PROOF OF SERVICE

Petitioner, Shariff Butler, hereby certify that on this 30th day of July, 2024, that Petitioner caused the foregoing **Motion For An Extension of Time to File a Petition For Writ of Certiorari Pursuant to Supreme Court Rule 30.2,30.3** to be served on all parties of record indicated as follows:

**Justice Samuel A. Alito
Office of the Clerk
Supreme Court of the United States
Washington, D.C. 20543**

**Sean A. Kirkpatrick
Office of Attorney General
Appellate Litigation Section
15th Floor, Strawberry Square
Harrisburg, Pa 17120**

DATE: 7/30/2024

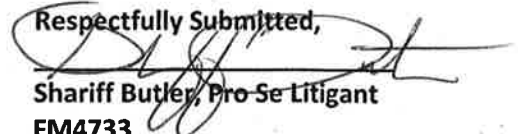
Respectfully Submitted,

Shariff Butler, Pro-Se Litigant
FM4733
1200 Mokyhic Drive
Collegeville, Pa 19426

Exhibit - A

COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

DOCKET



Docket Number: CP-51-CR-0409891-2002
CRIMINAL DOCKET
 Court Case

Commonwealth of Pennsylvania
 v.
 Shariff Butler

Page 4 of 17

CALENDAR EVENTS

<u>Case Calendar</u> <u>Event Type</u>	<u>Schedule</u> <u>Start Date</u>	<u>Start</u> <u>Time</u>	<u>Room</u>	<u>Judge Name</u>	<u>Schedule</u> <u>Status</u>
PCRA	12/29/2017	9:00 am	201	Judge Genece E. Brinkley	Moved
PCRA	09/28/2018	7:30 am	220	Judge Genece E. Brinkley	Moved
PCRA	04/26/2019	7:00 am	202	Judge Genece E. Brinkley	Moved
PCRA	12/27/2019	7:00 am	202	Judge Genece E. Brinkley	Moved
PCRA	04/24/2020	7:00 am	202	Judge Tracy Brandeis-Roman	Moved
PCRA	09/25/2020	7:00 am	202	Judge Tracy Brandeis-Roman	Moved
PCRA	01/08/2021	7:00 am	202	Judge Tracy Brandeis-Roman	Cancelled
PCRA	12/05/2022	9:00 am	908	Judge Tracy Brandeis-Roman	Moved
PCRA	12/15/2022	9:00 am	1001	Judge Scott DiClaudio	Continued
PCRA	04/06/2023	9:00 am	1001	Judge Scott DiClaudio	Continued
PCRA	04/06/2023	9:00 am	1001	Judge Scott DiClaudio	Continued
PCRA	06/29/2023	9:00 am	1001	Judge Scott DiClaudio	Continued
PCRA	09/06/2023	9:00 am	1001	Judge Scott DiClaudio	Continued
PCRA	11/01/2023	9:00 am	1001	Judge Scott DiClaudio	Continued
PCRA	11/27/2023	9:00 am	1001	Judge Scott DiClaudio	Continued
PCRA	03/18/2024	9:00 am	1001	Judge Scott DiClaudio	Scheduled
PCRA	07/15/2024	9:00 am	1001	Judge Scott DiClaudio	Scheduled

CONFINEMENT INFORMATION

<u>Confinement</u> <u>Known As Of</u>	<u>Confinement</u> <u>Type</u>	<u>Destination</u> <u>Location</u>	<u>Confinement</u> <u>Reason</u>	<u>Still in</u> <u>Custody</u>
11/24/2003	State Correctional Institution	SCI Huntingdon		Yes

DEFENDANT INFORMATION

Date Of Birth: 11/13/1977 City/State/Zip: PHILA., PA 19124

CASE PARTICIPANTS

<u>Participant Type</u>	<u>Name</u>
Defendant	Butler, Shariff

CHARGES

<u>Seq.</u>	<u>Orig Seq.</u>	<u>Grade</u>	<u>Statute</u>	<u>Statute Description</u>	<u>Offense Dt.</u>	<u>OTN</u>
1	1	M	35 § 780-113 §§ A16	Int Poss Contr Subst By Per Not Reg	11/05/2001	N 109492-5

DISPOSITION SENTENCING/PENALTIES

<u>Disposition</u> <u>Case Event</u> <u>Sequence/Description</u> <u>Sentencing Judge</u> <u>Sentence/Diversion Program Type</u>	<u>Disposition Date</u> <u>Offense Disposition</u> <u>Sentence Date</u> <u>Incarceration/Diversionary Period</u>	<u>Final Disposition</u> <u>Grade</u> <u>Section</u> <u>Credit For Time Served</u> <u>Start Date</u>

COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

DOCKET



Docket Number: CP-51-CR-0409891-2002

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

v.

Shariff Butler

Page 16 of 17

ENTRIES

<u>Sequence Number</u>	<u>CP Filed Date</u>	<u>Document Date</u>	<u>Filed By</u>
1	10/05/2023		Court of Common Pleas - Philadelphia County
Inmate Document Request			
1	11/01/2023		DiClaudio, Scott
Order Granting Motion for Continuance Butler, Shariff 11/01/2023			
1	11/27/2023		DiClaudio, Scott
Order Granting Motion for Continuance Butler, Shariff 11/27/2023			
1	03/18/2024		DiClaudio, Scott
Order Granting Motion for Continuance Butler, Shariff 03/18/2024			
4	03/18/2024		Court of Common Pleas - Philadelphia County
Order Granting Petition for Writ of Habeas Corpus Philadelphia County Sheriff's Office 03/18/2024 Philadelphia Department of Prisons 03/18/2024			
5	03/18/2024		Court of Common Pleas - Philadelphia County
Order Granting Petition for Writ of Habeas Corpus Philadelphia County Sheriff's Office 03/18/2024 Philadelphia Department of Prisons 03/18/2024			
6	03/18/2024		Court of Common Pleas - Philadelphia County
Commitment Philadelphia County Sheriff's Office 03/18/2024 Philadelphia Department of Prisons			

CPCMS 9082

Printed: 04/24/2024

Recent entries made in the court filing offices may not be immediately reflected on these docket sheets. Neither the courts of the Unified Judicial System of the Commonwealth of Pennsylvania nor the Administrative Office of Pennsylvania Courts assume any liability for inaccurate or delayed data, errors or omissions on these reports. Docket Sheet information should not be used in place of a criminal history background check which can only be provided by the Pennsylvania State Police. Moreover an employer who does not comply with the provisions of the Criminal History Record Information Act may be subject to civil liability as set forth in 18 Pa.C.S. Section 9183.

Exhibit-B

9. Only items shipped directly from a permitted vendor to the facility will be accepted and all packages must be addressed to you. The address on the package must contain your committed name, your Department number, and the complete address of the facility in which you are housed. The vendor or store name and return address must be clearly shown on the outside of the package. No handwritten labels, business cards, or store receipts will be accepted. Packages not meeting these requirements will be sent back to the vendor or store as undeliverable and without the facility assuming any responsibility for the package. The facility may decline to accept any package that is not properly addressed.
10. The only exceptions are packages containing personal clothing for parole. These packages must be clearly marked "Parole Clothes" and sent within 30 days of your release date.
11. All packages delivered to the facility will be opened and searched. If contraband is found, the package will be confiscated and it may be returned to the sender or held for evidence. Any money concealed in a package received by the facility is contraband and will be deposited in the IGWF. Promotional gifts received with an outside purchase, which are determined to be contraband, will be mailed home at your expense, or destroyed.
12. Each electronic device will be tested to ensure it works. After the device is tested and you accept it, it will be engraved to mark your name and number. This is to establish ownership during searches and/or if an item is reported stolen. All electronic devices will be searched for contraband and the tops of all screws used in the item will be painted in order to detect tampering.

F. Shipping of Personal Property


1. When you are transferred from one facility to another, you will make a personal inventory list and pack all your property in the presence of an officer. Both you and the officer will sign the DC-153.
2. No more than two records center boxes and a television box will be shipped with you. A footlocker may be used in place of the two records center boxes.
3. The sending facility will ship permitted excess written materials in remaining boxes by the least expensive common carrier available (U.S. Mail, UPS, etc.) to the receiving facility or to a person you designate at your expense, or the items will be destroyed.
4. If you are approved as indigent, only excess legal papers will be shipped and your account will be charged.
5. At the receiving facility, you will unpack and re-inventory the property in the presence of an officer. Both you and the officer must sign the DC-153.
6.  In the case of Authorized Temporary Absence (ATA), such as going to court, that is expected to last more than one day, you will be given boxes in which to pack personal property. It is your responsibility to make sure you pack any/all legal materials that you need for court.
7. All personal property will be packed prior to your release and placed in an orderly manner in your cell or stored as directed by the facility. You will be responsible for packing your own items and sealing the boxes with tape. When the boxes are sealed, you should make an appropriate mark of some type, including your full name and number, over the tape so that it can be determined whether the boxes have been opened. A Housing Unit Officer, or other staff member, will issue you a receipt for the number of boxes only, not what is in them. You

Exhibit-C

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 23-1761

SHARIFF BUTLER; JEREMEY MELVIN,
Appellants

v.

JOHN E. WETZEL, Secretary of the Department of Corrections;
SHIRLEY MOORE SMEAL, Executive Deputy of the Department of Corrections;
MELISSA ROBERTS, Former DOC Policy Coordinator; DIANE KASHMERE, Current
DOC Policy Coordinator; TABB BICKELL, Executive Deputy Secretary for Institutional
Operations; MICHAEL WENEROWICZ, Regional Deputy Secretary;
DORINA VARNER, Chief Grievance Coordinator; KERI MOORE, Assistant Chief
Grievance Coordinator; KEVIN KAUFFMAN, Superintendent at SCI-Huntingdon;
LONNIE OLIVER, Former Deputy Superintendent for Facilities Management at SCI-
Huntingdon; JOHN THOMAS, Former Deputy Superintendent for Centralized Services
at SCI-Huntingdon; BYRON BRUMBAUGH, Current Deputy Superintendent for
Facilities Management at SCI-Huntingdon; WILLIAM S. WALTERS; BRIAN HARRIS,
Captain/Shift Commander at SCI-Huntingdon; MANDY SIPPLE, Former Major of Unit
Management at SCI-Huntingdon; ANTHONY E. EBERLING, Security Lt. at SCI-
Huntingdon; BRUCE EWELL, Facility Maintenance Manger III at SCI-Huntingdon;
CONSTANCE GREEN, Superintendent's Assistant/Grievance Coordinator at SCI-
Huntingdon; ROBERT BILGER, Safety Manger at SCI-Huntingdon;
PAULA PRICE, Health Care Coordinator at SCI-Huntingdon; MICHELLE HARKER,
Nurse Supervisor at SCI-Huntingdon; ANDREA WAKEFIELD, Records Supervisor at
SCI-Huntingdon; GEORGE RALSTON, Unit Manager at SCI-Huntingdon;
ALLEN STRATTON, Unit Counselor at SCI-Huntingdon; JOHN BARR, Correctional
Officer at SCI-Huntingdon; J. REED, Correctional Officer at SCI-Huntingdon;
T. EMIGH, Correctional Officer at SCI-Huntingdon

(D.C. Civil No. 4:19-cv-02171)

SUR PETITION FOR REHEARING

Present: CHAGARES, Chief Judge, JORDAN, HARDIMAN, SHWARTZ, KRAUSE, RESTREPO, BIBAS, PORTER, MATEY, PHIPPS, FREEMAN, MONTGOMERY-REEVES and CHUNG, Circuit Judges

The petition for rehearing filed by appellants in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the the Court en banc, is denied.

BY THE COURT,

s/ David J. Porter
Circuit Judge

Date: May 14, 2024

Tmm/cc: Shariff Butler

Jeremey Melvin

Sean A. Kirkpatrick, Esq.

Exhibit-D

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 23-1761

SHARIFF BUTLER; JEREMEY MELVIN,
Appellants

v.

JOHN E. WETZEL, Secretary of the Department of Corrections;
SHIRLEY MOORE SMEAL, Executive Deputy of the Department of Corrections;
MELISSA ROBERTS, Former DOC Policy Coordinator; DIANE KASHMERE, Current
DOC Policy Coordinator; TABB BICKELL, Executive Deputy Secretary for Institutional
Operations; MICHAEL WENEROWICZ, Regional Deputy Secretary;
DORINA VARNER, Chief Grievance Coordinator; KERI MOORE, Assistant Chief
Grievance Coordinator; KEVIN KAUFFMAN, Superintendent at SCI-Huntingdon;
LONNIE OLIVER, Former Deputy Superintendent for Facilities Management at SCI-
Huntingdon; JOHN THOMAS, Former Deputy Superintendent for Centralized Services
at SCI-Huntingdon; BYRON BRUMBAUGH, Current Deputy Superintendent for
Facilities Management at SCI-Huntingdon; WILLIAM S. WALTERS; BRIAN HARRIS,
Captain/Shift Commander at SCI-Huntingdon; MANDY SIPPLE, Former Major of Unit
Management at SCI-Huntingdon; ANTHONY E. EBERLING, Security Lt. at SCI-
Huntingdon; BRUCE EWELL, Facility Maintenance Manger III at SCI-Huntingdon;
CONSTANCE GREEN, Superintendent's Assistant/Grievance Coordinator at SCI-
Huntingdon; ROBERT BILGER, Safety Manger at SCI-Huntingdon;
PAULA PRICE, Health Care Coordinator at SCI-Huntingdon; MICHELLE HARKER,
Nurse Supervisor at SCI-Huntingdon; ANDREA WAKEFIELD, Records Supervisor at
SCI-Huntingdon; GEORGE RALSTON, Unit Manager at SCI-Huntingdon;
ALLEN STRATTON, Unit Counselor at SCI-Huntingdon; JOHN BARR, Correctional
Officer at SCI-Huntingdon; J. REED, Correctional Officer at SCI-Huntingdon;
T. EMIGH, Correctional Officer at SCI-Huntingdon

On Appeal from the United States District Court
for the Middle District of Pennsylvania
(D.C. Civil Action No. 4:19-cv-02171)
District Judge: Honorable Matthew W. Brann

Submitted Pursuant to Third Circuit LAR 34.1(a)

March 6, 2024

Before: BIBAS, PORTER, and MONTGOMERY-REEVES, Circuit Judges

(Opinion filed: March 8, 2024)

OPINION*

PER CURIAM

Appellants Shariff Butler and Jeremey Melvin, proceeding pro se, appeal from multiple District Court orders. For the following reasons, we will affirm.

I.

Butler and Melvin, inmates at SCI-Huntingdon, sued 27 defendants, including Department of Corrections administrators and prison employees, pursuant to 42 U.S.C. § 1983. Dkt. No. 1. They alleged violations of the First and Eighth Amendments and state law, stating that officials denied them single cells and recreation time, failed to mitigate fire safety risks and ventilation issues, subjected them to overcrowding, understaffing, and vermin infestations, and retaliated against Butler after he filed a grievance. Id. at 7-26. They sought declaratory, compensatory, and injunctive relief. Id. at 43-45.

The District Court sua sponte dismissed 14 defendants without prejudice and Butler's single-cell denial claim with prejudice. Dkt. No. 18. Appellants sought to

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

amend their complaint, Dkt. No. 42, but the District Court deemed their motion to amend withdrawn and struck their proposed amended complaint because they failed to follow local rules, Dkt. No. 64. The District Court denied Appellants' motion for an extension of time to comply with those rules and their motions for sanctions and to compel discovery. Dkt. Nos. 77, 86, 88, 89, 102, 108, 113.

Defendants moved for summary judgment, which the District Court granted as to all but Butler's retaliatory cell search claim. Dkt. No. 135. After Butler submitted evidence to support the claim, the District Court granted summary judgment to the defendants. Dkt. Nos. 141 & 160. Appellants filed a Rule 59(e) motion and a timely notice of appeal. Dkt. Nos. 166 & 168. The District Court denied that motion, and Appellants filed an amended notice of appeal. Dkt. Nos. 175 & 182.

II.

We have jurisdiction under 28 U.S.C. § 1291. We exercise plenary review over the District Court's grant of summary judgment. Blunt v. Lower Merion Sch. Dist., 767 F.3d 247, 265 (3d Cir. 2014). Summary judgment is appropriate "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). A genuine dispute of material fact exists if the evidence is sufficient for a reasonable factfinder to return a verdict for the nonmoving party. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). We review for abuse of discretion the District Court's discovery rulings, its application of its local rules, and its denials of Rule 59(e) motions, motions for extensions of time, and motions for sanctions. In re Processed Egg Prods. Antitrust Litig., 962 F.3d 719, 729 n.7

(3d Cir. 2020) (Rule 59(e)); Weitzner v. Sanofi Pasteur Inc., 909 F.3d 604, 613 (3d Cir. 2018) (local rules); Drippe v. Tobelinski, 604 F.3d 778, 783 (3d Cir. 2010) (extensions of time); DiPaolo v. Moran, 407 F.3d 140, 144 (3d Cir. 2005) (sanctions); Gallas v. Supreme Ct. of Pa., 211 F.3d 760, 778 (3d Cir. 2000) (discovery).

III.

Appellants argue that the District Court erred in ruling that their Eighth Amendment claims regarding recreation time, ventilation, and vermin were time-barred because the wrongs against them were continuing. C.A. Dkt. No. 23 at 25 & 48-51. We disagree. The continuing violation doctrine does not apply when the plaintiff is aware of the injury at the time it occurred. Montanez v. Sec’y Pa. Dep’t of Corr., 773 F.3d 472, 481 (3d Cir. 2014). Appellants became aware of the alleged conditions more than ten years before they filed the complaint, Dkt. No. 96-1 at 54 & 62 (Melvin deposition); Dkt. No. 96-3 at 15 & 27 (Butler deposition), so the statute of limitations began to run at that time and had expired long before they filed their complaint.¹ Accordingly, the District Court correctly concluded that the claims were time-barred.²

¹ Appellants neither argue nor does the record reflect that they are entitled to equitable tolling on the claims.

² Despite Appellants’ arguments otherwise, C.A. Dkt. No. 23 at 70-73, Butler’s Eighth Amendment claim regarding the denial of his request for a single cell was also correctly dismissed as time-barred. That request was denied on August 28, 2017, Dkt. No. 10 at 12, and Butler filed a grievance about it 23 days later, on September 20, 2017, Dkt. No. 1 at 18. The filing of the grievance tolled the two-year statute of limitations period until December 19, 2017, when it was denied. Wisniewski v. Fisher, 857 F.3d 152, 157-58 (3d Cir. 2017). Accordingly, Butler had 697 days remaining in the limitations period, or until November 18, 2019, to file a complaint. He did not do so until December 15, 2019, so the District Court properly concluded that the claim was untimely.

Appellants also argue that the District Court erred in concluding that Melvin did not have standing to bring an Eighth Amendment claim regarding his desire to be housed in a single cell. C.A. Dkt. No. 23 at 51-54. To establish Article III standing, a plaintiff must demonstrate, inter alia, an injury-in-fact, which must be “concrete and particularized” and “actual or imminent, not conjectural or hypothetical.” Susan B. Anthony List v. Driehaus, 134 S. Ct. 2334, 2341 (2014) (internal quotations and citation omitted). Here, Melvin failed to demonstrate an injury-in-fact: although he asserted that he had a “right not to be double-celled,” it was undisputed that, at the time Appellants filed the complaint and throughout litigation, Melvin was housed in a single cell. Dkt. No. 1 at 36; Dkt. No. 96-1 at 10-13. To the extent Melvin characterizes his claim as premised on his desire for a *permanent* placement in a single cell, C.A. Dkt. No. 23 at 52-54, there is neither a constitutional right to temporary or permanent placement in a single cell nor has Melvin demonstrated that the conditions of his confinement violate the Eighth Amendment, as discussed below. See Rhodes v. Chapman, 452 U.S. 337, 347 (1981).

Appellants also challenge the District Court’s grant of summary judgment to defendants on their Eighth Amendment claims that the fire safety risks, overcrowding, and understaffing in the prison constitute cruel and unusual punishment. C.A. Dkt. No. 23 at 54-62. To state an Eighth Amendment claim, a plaintiff must first allege that he was incarcerated under conditions imposing a substantial risk of serious harm. See Porter v. Pa. Dep’t of Corr., 974 F.3d 431, 441 (3d Cir. 2020). As the District Court explained, beyond conclusory allegations and anecdotes, Appellants offered no evidence to show

that SCI-Huntingdon's fire protocols, population, or staffing created a substantial risk of serious harm. Dkt. No. 134 at 15-22; cf. Tillery v. Owens, 907 F.2d 418, 423-24 (3d Cir. 1990) (where extensive expert testimony included that "the poor level of fire protection made it likely that numerous inmates would die if a serious fire broke out"). Appellants' assertions are insufficient to create a genuine issue of material fact as to whether defendants violated the Eighth Amendment, so judgment in favor of the defendants on those claims was proper. See Nitkin v. Main Line Health, 67 F.4th 565, 571 (3d Cir. 2023) (explaining that a plaintiff "must point to concrete evidence in the record that supports each . . . essential element of his case" to withstand a motion for summary judgment) (quotations omitted).

Appellants also argue that the District Court erred in granting summary judgment to defendants on their First Amendment retaliation claims. C.A. Dkt. No. 23 at 62-68. To prevail on that claim, Appellants must prove that "(1) they engaged in constitutionally protected conduct, (2) defendants engaged in retaliatory action sufficient to deter a person of ordinary firmness from exercising their constitutional rights, and (3) a causal link [existed] between the constitutionally protected conduct and the retaliatory action." Palardy v. Township of Millburn, 906 F.3d 76, 80-81 (3d Cir. 2018). First, as to Butler's allegations that two defendants searched his cell in retaliation for his filing a grievance, the District Court correctly concluded that Butler provided no evidence that the two defendants were aware of that grievance, so he failed to prove a causal link.³ See Daniels

³ The District Court also correctly granted summary judgment to defendant Kauffman on Butler's free-standing retaliation claim against him. Dkt. No. 159 at 9. Appellants

v. School Dist. of Philadelphia, 776 F.3d 181, 196 (3d Cir. 2015). Second, as to Butler's allegations that defendants retaliatorily forged a grievance withdrawal form, Butler failed to prove that this action deterred him from exercising his constitutional rights. As the District Court explained, regardless of the veracity of Butler's forging allegations, it is undisputed that the grievance was reinstated, and Butler pursued it to the final stage of administrative review. Dkt. No. 10-3 at 21-24; Dkt. No. 95 at 6; Dkt. No. 123 at 10-11. Accordingly, defendants were entitled to judgment as a matter of law on Appellants' First Amendment retaliation claims.⁴

Finally, Appellants argue that the District Court abused its discretion by striking their proposed amended complaint for failure to follow M.D. Pa., L.R. 7.5, and by denying their request for an extension of time to comply with that rule. C.A. Dkt. No. 23 at 73-75. Despite proceeding pro se, Appellants were required to follow the same rules

alleged that Kauffman denied Butler's grievance about the search after "(allegedly) reviewing camera footage of the event." Dkt. No. 1 at 42. Beyond general assertions, Appellants provided no evidence that the denial was a retaliatory action. Cf. Brightwell v. Lehman, 637 F.3d 187, 194 (3d Cir. 2011) (charging prisoner with misconduct report that was later dismissed for filing a false grievance does not rise to the level of "adverse action" for purposes of retaliation claim). To the extent Appellants attempted to bring a conspiracy claim against Kauffman, Dkt. No. 169 at 7-9; C.A. Dkt. No. 23 at 66-67, because defendants were entitled to judgment as a matter of law on the underlying First Amendment retaliation claim, the conspiracy claim fails. See In re Orthopedic Bone Screw Prods. Liab. Litig., 193 F.3d 781, 789 (3d Cir. 1999).

⁴ Appellants also contend that the District Court erred in granting summary judgment to defendants on their breach of contract claim. C.A. Dkt. No. 23 at 68-70. But, as the District Court explained, Appellants neither provided evidence that they were parties to any contract at issue nor argued that they were entitled to enforce that contract under another legal theory. Dkt. No. 134 at 27-28.

as other litigants, see Mala v. Crown Bay Marina, Inc., 704 F.3d 239, 245-46 (3d Cir. 2013), including M.D. Pa., L.R. 7.5, which requires a movant to file a brief in support of a motion within 14 days of the motion's filing. Defendants identified M.D. Pa., L.R. 7.5 in their opposition to Appellants' motion to amend, Dkt. No. 47, but Appellants did not request an extension to comply with that rule until two months later, Dkt. No. 73. In the interim, Appellants filed 12 other documents, including motions, exhibits, and briefs. Despite Appellants' contentions that COVID-19 restrictions limited their access to SCI-Huntingdon's law library, id., the District Court concluded that Appellants failed to establish that they acted with due diligence in pursuing the extension, Dkt. No. 82 at 3. Under these circumstances, we discern no abuse of discretion in the District Court's rulings.⁵

⁵ Even if the District Court abused its discretion in striking Appellants' proposed amended complaint, Appellants were not harmed by that ruling because the amended complaint failed to address the issues identified in the District Court's without prejudice dismissal. See Dkt. Nos. 18 & 42. Appellants also challenge the District Court's denials of their three motions for sanctions, C.A. Dkt. No. 23 at 29-37 & 43-46; see Dkt. Nos. 77, 89, 92, 102, 108, 113, but we discern no abuse of discretion in those denials, see Simmerman v. Corino, 27 F.3d 58, 62 (3d Cir. 1994) (explaining that a district court abuses its discretion if it "based its ruling on an erroneous view of the law or on a clearly erroneous assessment of the evidence" (citation omitted)). Appellants also failed to demonstrate that the District Court abused its discretion in denying their motions to compel. C.A. Dkt. No. 23 at 40-43; see Dkt. Nos. 86, 88, 102. As the District Court explained, the information Appellants sought was irrelevant, and it was undisputed that the defendant from whom they sought specific documents did not have them in his possession. Dkt. No. 102 at 3-4. To the extent they argue otherwise, we also discern no abuse of discretion in the District Court's denial of Appellants' Rule 59(e) motion. See In re Processed Eggs Prods. Antitrust Litig., 962 F.3d at 729.

Accordingly, we will affirm the judgment of the District Court.⁶

⁶ Appellant's motion to exceed the page limitation for their argument in support of the appeal is granted, and their motion to correct the record is denied as moot. C.A. Dkt. Nos. 21 & 33.