

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION at LEXINGTON

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|----------------------|---|---------------------------------------|
| GLEN RILEY. |) | |
| |) | |
| |) | |
| |) | |
| Plaintiff, |) | |
| |) | Action No. 5:13-CV-352-JMH-CJS |
| v. |) | |
| |) | |
| |) | MEMORANDUM OPINION & ORDER |
| STEVE HANEY, et al., |) | |
| |) | |
| Defendants. |) | |
| |) | |

** ** * * *

This matter is before the Court on the Report and Recommendation of Magistrate Judge Candace J. Smith [DE 48]. Said action was referred [DE 21] to the Magistrate Judge for the purpose of preparing a Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B) on Defendants' motion for summary judgment. The Magistrate Judge filed her Report and Recommendation on April 25, 2014, in which she recommended that the Motion for Summary Judgment filed by Defendants Steve Haney and Gary Prestigiacomo [DE 40] be granted because Plaintiff failed to establish an Eighth Amendment claim and that, even if Plaintiff had raised a genuine issue of material fact with respect to his Eighth Amendment claim, Defendants Haney and

Prestigiacommo are entitled to qualified immunity. The Report and Recommendation advised Plaintiff Glen Riley that specific objections to same were due within fourteen days of the date of service of the Report and Recommendation or further appeal would be waived. Fourteen days have now expired, and Plaintiff Riley has not filed objections or otherwise responded to the Report and Recommendations.

Generally, "a judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations made by the magistrate judge." 28 U.S.C. § 636. However, when the petitioner fails to file any objections to the Report and Recommendation, as in the case *sub judice*, "[i]t does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a de novo or any other standard." *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Consequently, this Court adopts the reasoning set forth in the Report and Recommendation as its own.¹

¹ Nonetheless, the Court has reviewed the Report and Recommendation and, finding the authorities and reasoning therein to be sound, would adopt the Report and Recommendation if it were reviewed under a de novo standard.

Accordingly, **IT IS ORDERED** herein as follows:

(1) That Magistrate Judge Smith's Report and Recommendation [DE 48] be, and the same hereby is, **ACCEPTED** and **ADOPTED** in its entirety;

(2) That the Motion for Summary Judgment filed by Defendants Steve Haney and Gary Prestigiacomo [DE 40] is **GRANTED**.

This the 2nd day of June, 2014.



Signed By:

Joseph M. Hood *JMH*

Senior U.S. District Judge