

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KAREEM GARRETT,)	
)	Civil Action No. 3: 14-cv-00031
Plaintiff,)	
)	United States District Judge
v.)	Kim R. Gibson
)	
WEXFORD HEALTH, et al.,)	
)	
Defendants.)	

MEMORANDUM OPINION

This prisoner civil rights suit was referred to a United States Magistrate Judge for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules of Court for Magistrate Judges. Upon Plaintiff's compliance with the statutory requirements, his motion to proceed *in forma pauperis* was granted. (ECF No. 15). The operative complaint is the Third Amended Complaint, ECF No. 180, which incorrectly is entitled Second Amended Complaint.

Defendant Dr. Khatri and the Medical Defendants each filed a motion to dismiss arguing that Plaintiff had failed to exhaust his administrative remedies. (ECF Nos. 183 and 185). Because Defendant Khatri and the Medical Defendants presented material outside the Third Amended Complaint, the motions to dismiss were converted into motions for summary judgment on the issue of exhaustion only. The DOC Defendants filed a motion to dismiss and/or motion for more definite statement. (ECF No. 181).

On July 14, 2016, Magistrate Judge Eddy filed a Report and Recommendation (ECF No. 209) recommending that the motions to dismiss, which had been converted into motions for summary judgment, filed by Defendants Khatri and the Medical Defendants be granted and that

the DOC's motion to dismiss and/or for more definite statement likewise be granted. It was recommended that Plaintiff be allowed one final opportunity to amend his claims against the DOC defendant. The parties were advised that they had fourteen (14) days after service of the Report and Recommendation to file objections. To date, no party has filed any objections nor has any party sought an extension of time in which to do so.

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, the Motions to Dismiss, which have been converted into Motions for Summary Judgment, filed by Defendant Khatri and the Medical Defendants will be **GRANTED** and judgment will be entered in their favor; and the Motion to Dismiss and/or Motion for More Definite Statement filed by the DOC Defendants will be **GRANTED**. Plaintiff will be given an opportunity to file an amended complaint.

An appropriate order will be entered.

Dated: September 9, 2016

BY THE COURT:



Kim R. Gibson
United States District Judge

cc: KAREEM GARRETT
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(via U.S. First Class Mail)

All counsel of record via ECF notification