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NOT FOR PUBLICATION

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Louis T. Cervantes,
Plaintiff,

vs.

Richard Pratt, et al.,
Defendants.

) No. CV04-1004-PHX-SRB

) **ORDER**

Pending before the Court is a Report and Recommendation of the Magistrate Judge recommending that Defendant Jabczenski’s motion that the Court order Plaintiff to cease serving him with pleadings and documents be granted. On January 28, 2008, Plaintiff filed objections to the Report and Recommendation and a request for oral argument. The objections will be overruled. The request for oral argument is denied.

Defendant Jabczenski was first dismissed from this case in 2004. Plaintiff filed an amended complaint renaming him in January 2005. Later, the Court granted summary judgment in favor of Defendant Jabczenski dismissing Plaintiff’s Eighth Amendment claims of improper medical care against him. This ruling was affirmed on appeal.

After remand from the Court of Appeals, this Court held a status conference and confirmed to the Plaintiff that the only matters pending before the Court were a retaliation claim against Defendants Schriro, Baird, Macabuhay, Stapler, Sloan, Pratt and Jones and an excessive force claim against Defendant Karkhoff. Although no longer a party, Plaintiff has

1 continued to deluge Defendant Jabczenski with paper and to assert that he is still a Defendant
2 in this case liable for retaliation. He is not.

3 In his objection to the Magistrate Judge's Report and Recommendation Plaintiff states
4 that the Magistrate is biased and highly prejudiced against him because the Report and
5 Recommendation notes that Plaintiff is a potentially vexatious litigant who has filed
6 excessive and frivolous motions. The Court agrees with the Magistrate Judge that the
7 Plaintiff is a potentially vexatious litigant and that he has filed excessive and clearly frivolous
8 motions as well as frivolous objections to other rulings of the Magistrate Judge. Plaintiff's
9 objections are without merit and will be overruled.

10 IT IS ORDERED overruling Plaintiff's objections to the Magistrate Judge's Report
11 and Recommendation.

12 IT IS FURTHER ORDERED adopting the Report and Recommendation of the
13 Magistrate Judge as the order of this Court. (Doc. 313).

14 IT IS FURTHER ORDERED granting Felix Jabczenski, M.D.'s Motion Requesting
15 the Court to Order Plaintiff to Cease Serving Felix Jabczenski, M.D., With Discovery and
16 Other Documents in This Matter. (Doc. 300).

17 IT IS FURTHER ORDERED that Plaintiff shall serve no further pleadings, papers or
18 documents on Dr. Jabczenski or his counsel in this matter. If Plaintiff does not cease such
19 service as directed by this order Plaintiff shall be subject to sanctions up to and including the
20 dismissal of Plaintiff's case.

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22 DATED this 6th day of February, 2008.

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27 Susan R. Bolton
28 United States District Judge