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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Ernie Pete Ortega,	)	No. CV 07-2451-PHX-MHM(JCG)
Plaintiff,	)	<b>ORDER</b>
vs.	)	
Dora Schriro, et al.,	)	
Defendants.	)	
_____		

Plaintiff, Ernie Pete Ortega, filed his pro se civil rights Complaint pursuant to 42 U.S.C. §1983 [doc. 1]. On April 15, 2008, the Court granted Plaintiff’s second Application to Proceed *in Forma Pauperis* [doc. 13]. On that same date, the Court screened Plaintiff’s Complaint pursuant to 28 U.S.C. §1915(a), ordered Defendant Hewitt to answer Count Two of the Plaintiff’s original Complaint, and dismissed the remaining claims and Defendants without prejudice.

The Magistrate Judge filed her Report and Recommendation on August 22, 2008 recommending that (1) Counts One, Two and Four and Defendant Schriro be dismissed without prejudice; (2) Defendant Hewitt be required to answer Counts Three and Five; (3) Defendants Kraicinski, Sambora and Owens be required to answer Count Five; (4) Defendant Durrenburg be required to answer Counts Seven and Eight.

In her Report and Recommendation the Magistrate Judge advised the parties that they had 10 days from the date of service of a copy of the Report and Recommendation within

1 which to file specific written objections with the Court. The time to file such objections has  
2 long since expired and no objections to the Report and Recommendation have been filed.  
3 Failure to timely file objections to any factual or legal determination of the Magistrate Judge  
4 may be considered a waiver of a party's right to *de novo* consideration of the issues. *See*  
5 *United States v. Reyna-Tapia* 328 F.3d 1114, 1121 (9<sup>th</sup> Cir. 2003) (*en banc*).

6 After a complete and independent review of the issues presented, the Court finds itself  
7 in agreement with the Report and Recommendation of the Magistrate Judge.

8 **IT IS ORDERED** adopting the Report and Recommendation of the Magistrate Judge  
9 as the order of this Court [Doc. 26].

10 **IT IS FURTHER ORDERED** as follows:

11 (1) Counts One, Two and Four and Defendant Schriro are dismissed without  
12 prejudice.

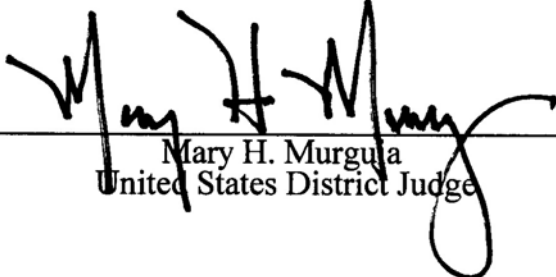
13 (2) Defendant Hewitt is required to answer Counts Three and Five.

14 (3) Defendants Kraicinski, Sambora and Owens are required to answer Count Five;

15 (4) Defendant Durrenburg is required to answer Counts Seven and Eight.

16 DATED this 30<sup>th</sup> day of September, 2008.

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Mary H. Murgula  
United States District Judge