

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

MATTHEW THOMPSON,

Plaintiff,

v.

4:13cv71-WS

DIANE SMITH and MS.
L. SALVADOR, PA, CA,

Defendants.

ORDER ADOPTING THE MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION

Before the court is the magistrate judge's report and recommendation docketed April 17, 2014. See Doc. 38. The magistrate judge recommends that this case be dismissed for failure to state a claim upon which relief may be granted. The plaintiff has filed objections (doc. 39) to the magistrate judge's report and recommendation.

Having considered the record in light of the plaintiff's objections, the court finds that the magistrate judge's report and recommendation should be adopted.

The plaintiff claims that, by failing to place him on a permanent high calorie diet, the defendants were deliberately indifferent to his serious medical needs.

Deliberate indifference is an extremely high standard, and the allegations made by the plaintiff do not meet that standard. Among other things, the plaintiff's second amended complaint, with attachments, reflects that the plaintiff's weight was closely monitored by prison officials, resulting in the plaintiff's being placed on a high calorie special diet seven times in three years. Such allegations doom the plaintiff's claim that the defendants were deliberately indifferent to his dietary needs.

Accordingly, it is ORDERED:

1. The magistrate judge's report and recommendation (doc. 38) is hereby ADOPTED and incorporated by reference into this order.
2. The defendants' motions to dismiss (docs. 26 & 27) are GRANTED.
3. The plaintiff's second amended complaint and this action are DISMISSED for failure to state a claim upon which relief may be granted.
4. The clerk shall enter judgment stating: "All claims are DISMISSED for failure to state a claim."

DONE AND ORDERED this 5th day of May, 2014.

s/ William Stafford
WILLIAM STAFFORD
SENIOR UNITED STATES DISTRICT JUDGE