

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

WILLIAM TONY McCROAN,

Plaintiff,

v.

CASE NO. 4:14cv40-RH/CAS

MARGUERITE J. MORGAN,
ADMINISTRATOR, FLORIDA
STATE HOSPITAL,

Defendant.

_____ /

ORDER GRANTING SUMMARY JUDGMENT

The plaintiff William Tony McCroan is detained in the Florida State Hospital. He alleges that the hospital administrator, the defendant Marguerite J. Morgan, disapproved nasal surgery that was medically necessary. The case is before the court on the magistrate judge's report and recommendation, ECF No. 46, which recommends granting summary judgment for Ms. Morgan.

Mr. McCroan has filed no objections. He has, however, moved for leave to amend his complaint to allege that his claim arises under the Fourteenth Amendment. This apparently is a response to the accurate statement in the report

and recommendation that a claim of a person who has been detained but not convicted arises under the Fourteenth Amendment, not the Eighth.

The report and recommendation correctly concludes that summary judgment should be entered for Ms. Morgan. The record shows that she did not make or participate in the decision not to approve Mr. McCroan's surgery. For this reason,

IT IS ORDERED:

1. The report and recommendation is accepted.
2. Ms. Morgan's summary-judgment motion, ECF No. 35, is granted.
3. The clerk must enter judgment stating, "This action was resolved on a motion for summary judgment. It is ordered that the plaintiff William Tony McCroan recover nothing. The claims against the defendant Marguerite J. Morgan are dismissed on the merits."
4. The clerk must close the file.

SO ORDERED on September 13, 2015.

s/Robert L. Hinkle
United States District Judge