

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 09-22754-CIV-SEITZ/WHITE

ANTHONY L. MOORE,

Plaintiff,

v.

WALTER A. McNEIL, *et al.*,

Defendants.

**ORDER AFFIRMING AND ADOPTING REPORTS OF MAGISTRATE JUDGE,
DENYING MOTION FOR REFERRAL TO VOLUNTEER ATTORNEY PROGRAM,
AND CLOSING CASE**

THIS MATTER is before the Court upon the Report and Recommendations re: Nurse Chandilier [DE-401] and the Supplemental Report and Recommendations re: Nurse Chandilier [DE-457] issued by the Honorable Patrick A. White, United States Magistrate Judge. Plaintiff has filed objections [DE-472] to the Supplemental Report. Plaintiff has also filed a Motion for Referral to Volunteer Attorney Program [DE-476]. Because the Marshals have been unable to obtain service on Defendant Nurse Chandilier, the Reports and Recommendations are affirmed and adopted and Nurse Chandiler is dismissed from this action. Given that Nurse Chandilier is the only remaining Defendant and she is being dismissed, Plaintiff's Motion for Referral to Volunteer Attorney Program is denied as moot.

Plaintiff filed this 42 U.S.C. § 1983 action against multiple defendants. As set out in more detail in the Report and Recommendations re: Nurse Chandilier (R&R), all of the Defendants, except Nurse Chandilier, were served and were ultimately dismissed on summary judgment. Nurse Chandilier, however, remains unserved. As explained in the R&R, after

remand from the Eleventh Circuit, the Magistrate Judge attempted to help Plaintiff locate Nurse Chandilier in order to effectuate service by ordering her former employer to provide Nurse Chandilier's last known contact information. The employer had none. The Magistrate Judge also ordered her former employer to provide to the Court, under seal, a list of all employees who were employed at Dade Correctional Institution at the time of Plaintiff's incident there. The employer was unable to do so because of a change in software. In a last ditch effort to locate Nurse Chandilier, the Magistrate Judge ordered co-defendant Nurse Chamberlain's counsel to contact Chamberlain to inquire whether Chamberlain had any contact information for Nurse Chandilier. Initially, counsel was unable to contact Chamberlain [DE-449]. Based on these efforts, the R&R and Supplemental Report recommend that Nurse Chandilier be dismissed from this matter. After issuance of the Supplemental Report, Chamberlain's counsel filed an Amended Response to Order [DE-458], in which she stated that, after many repeated attempts at contact, Chamberlain emailed counsel and stated that he had not seen or heard from Nurse Chandilier since they were employed together.

Plaintiff has filed objections to Chamberlain's counsel's initial response [DE-459] and to the Supplemental Report [DE-472]. Because objections to counsel's response are not an appropriate response and because the objections do not address counsel's statements, the objections are overruled. Plaintiff's objections to the Supplemental Report also do not address the contents of the Supplemental Report; instead, Plaintiff states that he has been subject to false disciplinary reports as a result of pursuing his legal rights and that Nurse Chamberlain is in contempt of Court. First, as the Court has previously informed Plaintiff, any violations of his rights which occurred after the September 2007 incidents that formed the basis of this suit are

properly raised in a separate suit. Second, the Court cannot find Nurse Chamberlain in contempt because Nurse Chamberlain is not in violation of any Court order. Nurse Chamberlain was previously dismissed from this case and has not ignored any Court orders. Thus, Plaintiff's objections to the Supplemental Report are overruled.

Having carefully reviewed, *de novo*, Magistrate Judge White's R&R, the Supplemental Report, Plaintiff's objections, and the record, it is hereby

ORDERED that:

(1) The Report and Recommendations re: Nurse Chandilier [DE-401] and the Supplemental Report and Recommendations re: Nurse Chandilier [DE-457] are AFFIRMED and ADOPTED. Defendant Nurse Chandilier is DISMISSED for lack of service.

(2) Plaintiff's Objection to Attorney Ana C. Francolin's Response to Order [DE-459] is OVERRULED.

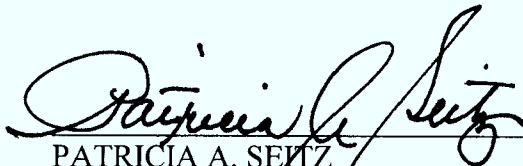
(3) Plaintiff's Motion for Objection to Magistrate Report and Recommendation [DE-452] is OVERRULED.

(4) Plaintiff's Motion for Referral to Volunteer Attorney Program [DE-476] is DENIED as moot.

(5) All pending motions not otherwise ruled upon are DENIED as moot.

(6) This case is CLOSED.

DONE and ORDERED in Miami, Florida, this 15th day of June, 2017.



PATRICIA A. SEITZ
UNITED STATES DISTRICT JUDGE

cc: Magistrate Judge White
All counsel of record/*Pro se party*