

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

JAMES OWENS, #K83253,

Plaintiff,

vs.

WARDEN LAMB, et al.,

Defendants.

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Case No. 3:17-cv-00667-SMY

MEMORANDUM AND ORDER

YANDLE, District Judge:

This case is now before the Court for consideration of Plaintiff's appeal of Magistrate Judge Reona J. Daly's September 23, 2019 Order (Doc. 101) and other related matters. Plaintiff James Owens, an inmate in the Illinois Department of Corrections, filed this action pursuant to 42 U.S.C. § 1983 for alleged deprivations of his constitutional rights. He is proceeding on an Eighth Amendment deliberate indifference to serious medical needs claim against Warden Lamb and Lieutenant Leif McCarthy.

Defendants filed a motion for summary judgment, arguing McCarthy was not deliberately indifferent to Plaintiff's serious medical needs and that he is entitled to qualified immunity on Plaintiff's claim.¹ (Doc. 82). After two extensions of time were granted, Plaintiff's response to the motion was due on September 16, 2019 (*see* Docs. 87, 90). He failed to file a response. On September 19, 2019, Magistrate Judge Reona J. Daley issued a Report and Recommendation, recommending the motion be granted and judgment be entered in favor of Defendants. (Doc. 91).

Subsequently, Plaintiff filed a Notice of Change of Address (Doc. 92) and a third Motion

¹Warden Lamb is only sued in an official capacity for any potential injunctive relief.

for Extension of Time requesting additional time to file a response to the motion for summary judgment (Doc. 93). Judge Daly denied the motion for extension and reminded Plaintiff that he had 14 days from the date of the Report and Recommendation to file objections. (Doc. 94).

Plaintiff then filed a Supplement to the [Third] Motion for Extension of Time seeking additional time to file a response to the motion for summary judgment (Doc. 95), which was denied (Doc. 96). Judge Daly again reminded Plaintiff of his deadline to file objections to the Report and Recommendation and advised him to file a timely motion for an extension if he needed additional time to file his objections. (Doc. 96). Plaintiff then filed a motion for extension of time to file objections (Doc. 97) and a motion for reconsideration requesting that the Court withdraw the Report and Recommendation and grant his motion for extension to file a response (Doc. 98). Judge Daly denied the motion for reconsideration. (Doc. 100).

Plaintiff subsequently filed an appeal of Judge Daly's ruling denying his third motion for extension (Doc. 94). He also filed a Motion to Stay Judgment on the Report and Recommendation (Doc. 102) and an untimely response to the motion for summary judgment (Doc. 103).

Discussion

Plaintiff was granted two extensions of time to respond to the motion for summary judgment. While he complains that a prison transfer on September 12, 2019 interfered with his ability to meet the September 16, 2019 deadline, the summary judgment motion was filed nearly three months before the transfer took place. His third motion seeking an extension was received after the Report and Recommendation was issued.

A district judge should not disturb a magistrate judge's ruling on a non-dispositive matter unless it is contrary to law or clearly erroneous. 28 U.S.C. § 636(b)(1)(A); FED. R. CIV. P. 72(a); SDIL-LR 73.1(a). The Court finds that Judge Daly's decision to deny Plaintiff's third motion for

extension of time was not contrary to law or clearly erroneous. Accordingly, his appeal will be denied. Because Plaintiff's untimely response to the motion for summary judgment was filed without leave of court and contrary to the Court's rulings, it will be stricken. The Court will, however, grant Plaintiff's Motion for Extension of Time to File Objections to the Report and Recommendation.

Accordingly, Plaintiff's appeal of Magistrate Judge Daly's September 23, 2019 Order (Doc. 101) is **DENIED**; Plaintiff's response to the motion for summary judgment (Doc. 103) is **STRICKEN**; the Motion to Stay Judgment on the Report and Recommendation (Doc. 102) is **DENIED** as moot; and Plaintiff's Motion for Extension of Time to File Objections (Doc. 97) is **GRANTED**. Plaintiff's objections are due within 14 days of this Order. There will be no further extension of that deadline absent extraordinary circumstances.

IT IS SO ORDERED.

DATED: August 25, 2020

s/ Staci M. Yandle
STACI M. YANDLE
United States District Judge