

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
SOUTHERN DIVISION at LONDON**

**CIVIL ACTION NO. 10-299-HRW**

**JOHN F. KENNEDY,**

**PLAINTIFF,**

**v.**

**PHILLIP SETTLES,**

**DEFENDANTS.**

This matter is before the Court upon Plaintiff's motions for judgment on the pleadings or, alternatively, for summary judgment, on the sole remaining claim, an allegation of Eighth Amendment deliberate indifference. (DE ##76, 86). The motion was referred to United States Magistrate Robert Weir for findings of fact and recommendations on dispositive motions.

Magistrate Judge Weir recommends that the Court convert Plaintiff's motion for judgment on the pleadings to a motion for summary judgment and then overrule Plaintiff's motion for summary judgment.

Plaintiff has not filed objections to the report and recommendation and the time for doing so has passed.

After carefully considering the record, the Court finds the report and recommendation well taken and shall adopt the same as and for its own opinion.

Accordingly, **IT IS THEREFORE ORDERED AND ADJUDGED**,

- (1) that the Magistrate Judge's report and recommendation [Docket No. 104] is hereby **APPROVED** and **ADOPTED** as and for the Court's opinion;
- (2) Plaintiff's motions for judgment on the pleadings or, alternatively, for summary judgment, on the sole remaining claim, an allegation of Eighth Amendment deliberate indifference. (DE ##76, 86) are **OVERRULED**.

This 22<sup>nd</sup> day of April, 2014.



Signed By  
Henry R. Wilhoit, Jr.  
United States District Judge