

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

Eastern District of Kentucky
FILED
JUN 03 2014
AT ASHLAND
ROBERT R. CARR
CLERK U.S. DISTRICT COURT

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 filed Objections [Docket No. 112 and 113]. The Objections are not a model of clarity. However, in his Objections Plaintiff specifically states that he agrees with the Magistrate Judge's recommendation that summary judgment is not appropriate.

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 3rd day of June, 2014.



Signed By:
Henry R. Without, Jr.
United States District Judge.