

United States District Court
District of Massachusetts

_____)	
DANA E. LOPES,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.
)	14-10679-NMG
GERALDINE RIENDEAU et al.,)	
)	
Defendants.)	
_____)	

ORDER

GORTON, J.

Upon careful consideration of the objections of defendants Barbara Berg, Shawna Nasuti, Paul Caratazzola, Patricia Davenport-Mello and Massachusetts Partnership for Correctional Healthcare (Docket No. 63) and of plaintiff Dana Lopes (Docket No. 64) to the Report and Recommendation ("R&R") of Magistrate Judge Marianne B. Bowler (Docket No. 60), the Court:

- 1) overrules plaintiff's objections;
- 2) rejects the determination of the Magistrate Judge that there remains a genuine issue of material fact as to whether plaintiff's January, 2015 grievance and appeal satisfies the exhaustion requirement of the Prison Litigation Reform Act ("PLRA") because a) plaintiff filed his grievance nearly a year after this case was filed in February, 2014 and b) defendants did not

therefore have a fair opportunity to address the matter prior to being subjected to suit; and

- 3) accepts and adopts the determination of the Magistrate Judge that summary judgment should be entered for defendants on plaintiff's Section 1983 claim because plaintiff cannot show that the medical treatment provided by defendants amounted to deliberate indifference under the Eighth Amendment to the United States Constitution.

Accordingly, the R&R is rejected with respect to the conclusion of the Magistrate Judge that the plaintiff has exhausted his administrative remedy but is otherwise accepted and adopted.

So ordered.



Nathaniel M. Gorton
United States District Judge

Dated March 24, 2014