

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MATTHEW HALL,

Plaintiff,

Case No. 14-cv-12022

v

Honorable Thomas L. Ludington
Magistrate Judge Mona K. Majzoub

HARESH PANDYA, et al.,

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATION, DENYING PLAINTIFF'S
MOTION FOR ENFORCEMENT OF RULE 23, GRANTING DEFENDANT PANDYA'S
MOTION FOR SUMMARY JUDGMENT, DISMISSING PLAINTIFF'S COMPLAINT,
AND DENYING LEAVE TO APPEAL IN FORMA PAUPERIS**

Plaintiff Matthew Hall, a prisoner, filed this pro se civil rights action on May 20, 2014, pursuant to 42 U.S.C. § 1983 alleging that Defendants Haresh Pandya and Corizon Health, Inc. were deliberately indifferent to his medical needs in violation of the Eighth Amendment. ECF No. 1. Defendant Corizon Health filed a motion for summary judgment on February 23, 2015, which was granted on August 3, 2015. ECF Nos. 29, 25, 48.

On March 3, 2015 Plaintiff Hall filed a motion for enforcement of Federal Rule of Appellate Procedure 23. ECF No. 33. Subsequently on June 24, 2015, Defendant Pandya filed a motion for summary judgment. ECF No. 43. Plaintiff Hall did not file a response to Defendant Pandya's motion for summary judgment.

On December 3, 2015, Magistrate Judge Mona K. Majzoub issued a report recommending that Defendant Pandya's motion for summary judgment be granted. ECF No. 49. Judge Majzoub reasoned that Plaintiff Hall had not shown that Defendant Pandya had been deliberately indifferent to his serious medical need, and that Plaintiff Hall's claims amounted to

mere disagreement with Defendant Pandya's medical judgment. Judge Majzoub also recommended that Plaintiff Hall's motion for enforcement of Rule 23 be denied because the rule is inapplicable in prisoner civil rights complaints filed under 42 U.S.C. § 1983. ECF No. 49. She therefore recommended dismissing Plaintiff's complaint in its entirety.

Although Magistrate Judge Majzoub's report explicitly stated that the parties to this action could object to and seek review of the recommendation within fourteen days of service of the report, neither Plaintiff nor Defendant filed any objections. The election not to file objections to the Magistrate Judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). The failure to file objections to the report and recommendation waives any further right to appeal.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation, ECF No. 49, is **ADOPTED**.

It is further **ORDERED** that Plaintiff Matthew Hall's motion for enforcement of Rule 23, ECF No. 33, is **DENIED**.

It is further **ORDERED** that Defendant Hareh Pandya's motion for summary judgment, ECF No. 43, is **GRANTED**.

It is further **ORDERED** that Plaintiff Matthew Hall's complaint, ECF No. 1, is **DISMISSED with prejudice**.

It is further **ORDERED** that permission to proceed *in forma pauperis* on appeal is **DENIED**. An appeal would be frivolous and could not be taken in good faith. *See* 28 U.S.C. §1915 (a)(3); *Coppedge v. United States*, 369 U.S. 438, 445 (1962).

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: January 5, 2016

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on January 5, 2016.

s/Michael A. Sian
MICHAEL A. SIAN, Case Manager