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## UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION

KENNETH COX, JR.,

No. 06-CV-13407-DT
Hon. Gerald E. Rosen

## OPINION AND ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION AND GRANTING DEFENDANT PRAMSTALLER'S MOTION FOR SUMMARY JUDGMENT

At a session of said Court, held in the U.S. Courthouse, Detroit, Michigan on September 4, 2009

PRESENT: Honorable Gerald E. Rosen Chief Judge, United States District Court

This prisoner civil rights action is presently before the Court on the August 11, 2009 Report and Recommendation of United States Magistrate Judge Paul J. Komives recommending that the Court grant Defendant Pramstallar's motion for summary judgment on Plaintiff's single remaining claim of deliberate indifference to his medical needs in violation of the Eighth Amendment relating to his hernia. Plaintiff has filed objections to the R&R. Having reviewed and considered the Magistrate Judge's Report

<sup>&</sup>lt;sup>1</sup> The Court previously entered an Order dismissing all of Plaintiff's claims against all of the other 12 defendants who had been served with process in this matter. (Plaintiff's complaint originally listed 22 separate defendants. Nine of the individuals named as defendants have never been served.)

and Recommendation, Plaintiff's objections, Defendant's response thereto, and the

Court's entire file of this matter, the Court agrees with the Magistrate Judge's

recommendation that Plaintiff's Eighth Amendment claim relating to his hernia should be

dismissed. Therefore,

IT IS HEREBY ORDERED that the Magistrate Judge's August 11, 2009 Report

and Recommendation [Dkt. #82] is adopted by the Court.

IT IS FURTHER ORDERED that Defendant Pramstallar's Motion for Summary

Judgment [Dkt. # 66] is GRANTED. Accordingly,

IT IS FURTHER ORDERED that Plaintiff's Eighth Amendment claim against

Defendant Pramstallar is DISMISSED, with prejudice.

IT IS FURTHER ORDERED that this case is remanded to the Magistrate Judge

for further pretrial proceedings with respect to any remaining viable claims against the

yet-to-be-served defendants, including resolution of any issues pertaining to service of

process.

SO ORDERED.

s/Gerald E. Rosen

Chief Judge, United States District Court

Dated: September 4, 2009

I hereby certify that a copy of the foregoing document was served upon counsel of record

on September 4, 2009, by electronic and/or ordinary mail.

s/Ruth Brissaud

Case Manager