

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

AUBREY LEE CHRISTIAN,

Plaintiff,

v.

Civil Action No. 12-11113

HONORABLE DENISE PAGE HOOD

**ASTRAZENECA LP, SANDRA
VONDEREMBSE, M.D. and MDOC
HEALTH SERVICES DIVISION,**

Defendants.

ORDER OVERRULING AND DENYING UNTIMELY OBJECTIONS

This matter is before the Court on Plaintiff's Objections to the Report and Recommendation filed late on July 2, 2012 (signed June 26, 2012 and mailed June 27, 2012) [Doc. #21]. Magistrate Judge Charles E. Binder's Report and Recommendation was filed on May 22, 2012 [Doc. # 18]. The Court issued an Order accepting the Report and Recommendation and dismissing the action on June 29, 2012, noting that no Objections were filed and that the time to file the Objections had passed [Doc. #19].

The Court's review of the untimely-filed Objections does not change the Court's ruling set forth in its June 29, 2012 Order. The Court held that Plaintiff failed to state a claim upon which relief may be granted as to Defendant AstraZeneca and that this Court lack subject matter jurisdiction over the negligence claim alleged by Plaintiff. Even if the Court were to consider the Prisoner Health Services of Michigan as a defendant, Plaintiff cannot hold PHS vicariously liable for the acts of its employees since a private corporation cannot be held liable under Section 1983. *See Greenman v. Prisoner Health Serv.*, 2011 WL 6130410, at *10 (W.D. Mich. Dec. 8, 2011), citing *Street v. Correction Corp. of America*, 102 F.3d 810, 818 (6th Cir. 1996). Accordingly,

IT IS ORDERED that Plaintiff's untimely Objections [**Doc. # 21**] are OVERRULED and DENIED.

IT IS FURTHER ORDERED and certified that any appeal from this decision would be frivolous and not taken in good faith. An appeal may not be taken *in forma pauperis* under 28 U.S.C. § 1915(a)(3); *Coppedge v. United States*, 369 U.S. 438, 445 (1962), *McGore v. Wrigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997).

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: September 28, 2012

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, September 28, 2012, by electronic and/or ordinary mail.

S/Julie Owens
Case Manager, (313) 234-5160