

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DANIEL L. WALLS,

Plaintiff,

Case No. 12-CV-11874

v.

HONORABLE STEPHEN J. MURPHY, III

LYNETT O'CONNOR, RICHARD DASE,
and CORIZON INSURANCE,

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION (docket no. 30) AND
GRANTING DEFENDANT RICHARD DASE'S MOTION TO DISMISS (docket no. 9)**

This is a prisoner civil rights action. Plaintiff Daniel Walls is a former inmate of the Parnell Correctional Facility, who alleges that he was denied adequate medical care there. On June 14, 2012, Defendant Richard Dase filed a motion to dismiss. ECF No. 9. The Court referred the motion to a Magistrate Judge. On January 22, 2013, the Magistrate Judge issued a Report and Recommendation ("Report"). ECF No. 30. In his Report, the Magistrate Judge concluded that the Court should grant Dase's motion to dismiss. The Magistrate Judge found that Walls' grievances during the administrative remedy process did not name or otherwise mention Dase specifically, despite Walls' clear allegations against Dase in the complaint filed in this action. The Magistrate Judge concluded the lack of allegations against Dase at the grievance stages meant Walls had not exhausted his administrative remedies against Dase as required by the Prisoner Litigation Reform Act, and therefore the complaint against Dase should be dismissed. Report at 13-14.

Civil Rule 72(b) governs review of a magistrate judge's report and recommendation. De novo review of the magistrate judge's findings is only required if the parties "serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ.

P. 72(b)(2). Nevertheless, because a district judge always retains jurisdiction over a motion after referring it to a magistrate judge, the judge is entitled to review the magistrate judge's findings of fact and conclusions of law on his own initiative. See *Thomas v. Arn*, 474 U.S. 140, 154 (1985) (clarifying that while a district court judge need not review a report and recommendation "de novo if no objections are filed, it does not preclude further review by the district judge, sua sponte or at the request of a party, under a de novo or any other standard").

Because neither party filed objections to the Report, de novo review of the Report's conclusions is not required. Having reviewed the Report's analysis, in light of the record, the Court finds that its conclusions are factually based and legally sound. Accordingly, it will adopt the Report's findings and deny the motion for class certification.

ORDER

WHEREFORE, it is hereby **ORDERED** that the Report and Recommendation (docket no. 30) is **ADOPTED**.

IT IS FURTHER ORDERED that Defendant Richard Dase's Motion to Dismiss (docket no. 9) is **GRANTED**. Defendant Richard Dase is **DISMISSED** from this action.

SO ORDERED.

s/Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: February 13, 2013

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on February 13, 2013, by electronic and/or ordinary mail.

Carol Cohron
Case Manager