

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

DONNA KOETJE,

Plaintiff,

Case No. 13-12739

Honorable Denise Page Hood

v.

AMANDA NORTON, CHIEF MEDICAL
OFFICER STEIVE, and SQUIER OF
PRISON HEALTH SERVICES/CORIZON,

Defendants.

**ORDER ACCEPTING REPORT AND RECOMMENDATION,
DISMISSING DEFENDANT AMANDA NORTON,
MOOTING MOTION FOR SUMMARY JUDGMENT
and
DISMISSING ACTION**

This matter is before the Court on a Report and Recommendation (Doc. No. 84) filed by Magistrate Judge Anthony P. Patti filed August 13, 2015 as to the remaining Defendant Amanda Norton.¹ To date, no objections have been filed to the Report and Recommendation and the time to file such has passed.

The standard of review by the district court when examining a Report and Recommendation is set forth in 28 U.S.C. § 636. This Court “shall make a *de novo* determination of those portions of the report or the specified proposed findings or

¹ Defendants Squier and Stieve were previously dismissed by the Court. (Doc. Nos. 74, 82)

recommendations to which an objection is made.” 28 U.S.C. § 636(B)(1)(c). The Court “may accept, reject or modify, in whole or in part, the findings or recommendations made by the Magistrate.” *Id.* In order to preserve the right to appeal the Magistrate Judge’s recommendation, a party must file objections to the Report and Recommendation within fourteen (14) days of service of the Report and Recommendation. Fed. R. Civ. P 72(b)(2). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Secretary of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

After review of the Magistrate Judge’s Report and Recommendation, the Court finds that his findings and conclusions are correct. The Court agrees with the Magistrate Judge that Plaintiff failed to allege an Eighth Amendment claim of deliberate indifference to a serious medical need. The Court further agrees with the Magistrate Judge that Plaintiff’s claim may allege a state law tort of negligence/medical malpractice against Defendant Norton which is not cognizable under a 42 U.S.C. § 1983 Eighth Amendment claim. Plaintiff’s claim against Defendant Norton must be dismissed for failure to state a claim upon which relief may be granted. Defendant Norton’s Motion for Summary Judgment as to failure to exhaust Plaintiff’s administrative remedies is now rendered moot.

Accordingly,

IT IS ORDERED that Magistrate Judge Anthony P. Patti's Report and Recommendation (**No. 84**) is ACCEPTED and ADOPTED as this Court's findings of fact and conclusions of law.

IT IS FURTHER ORDERED that Defendant Amanda Norton's Motion for Summary Judgment (**No. 75**) is MOOT.

IT IS FURTHER ORDERED that Defendant Amanda Norton is DISMISSED from this action for failure to state a claim upon which relief may be granted.

IT IS FURTHER ORDERED that this action is DISMISSED and designated as CLOSED on the Court's docket.

S/Denise Page Hood
Denise Page Hood
United States District Judge

Dated: September 28, 2015

I hereby certify that a copy of the foregoing document was served upon counsel of record on September 28, 2015, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry
Case Manager