

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WALTER CUMMINGS BEY,

Plaintiff,

v.

PAUL KLEE, ET AL,

Defendants.

Case No. 14-10957

SENIOR U.S. DISTRICT JUDGE
ARTHUR J. TARNOW

U.S. MAGISTRATE JUDGE
STEPHANIE DAWKINS DAVIS

ORDER ADOPTING REPORT AND RECOMMENDATION [185]

Plaintiff Walter Cummings Bey, a pro se prisoner, has brought claims pursuant to 42 U.S.C. § 1983 against officials of the Michigan Department of Corrections (hereinafter “MDOC”) and Roselyn Jindal, P.A., an employee of a private contractor. He alleges violations of his 8th and 14th Amendment rights, violations of the Americans with Disability Act, and violations of Michigan medical malpractice law, all stemming from his fall on September 26, 2013 while in MDOC custody. On August 19, 2018, the Magistrate Judge issued a Report and Recommendation (R&R) [Dkt. #185]. Neither Plaintiff nor Defendant objected to the R&R, and so this Court’s role can be minimal. Fed. R. Civ. P. 72(b).

The R&R advises the Court to Grant the MDOC Defendant’s Motion for Summary Judgment [163] on all of Plaintiff’s retaliation and conspiracy claims against any defendant, on Plaintiff’s excessive force claims against defendants

Klee and Ellenwood, and on Plaintiff's deliberate indifference claim against Klee. The R&R recommends denying the MDOC defendant's Motion for Summary Judgment [163] as to Plaintiff's claim against defendant Klee for lack of adequate accommodations under the ADA, as to Plaintiff's use of excessive force claim against all MDOC defendants except Klee and Ellenwood, and as to Plaintiff's deliberate indifference claim against all defendants except Klee. The R&R recommends that none of the MDOC defendants be entitled to qualified immunity on Plaintiff's deliberate indifference and excessive force claims.

As to defendant Jindal, the R&R recommends granting her Motion to Dismiss [127] as to the Plaintiff's claims against her under the ADA and under Michigan medical malpractice law, but denying her Motion to Dismiss as to the Plaintiff's deliberate indifference claims for lack of proper medical accommodations and for lack of proper medical care.

The Court having reviewed the record, the Report and Recommendation [185] is hereby **ADOPTED** and entered as the findings and conclusions of the Court.

SO ORDERED.

Dated: September 12, 2018

s/Arthur J. Tarnow
Arthur J. Tarnow
Senior United States District Judge