

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CARL BENNETT,

Plaintiff,

Case No. 15-cv-14465
Hon. Matthew F. Leitman

v.

MICHIGAN DEPARTMENT OF
CORRECTIONS, *et al.*,

Defendants.

**ORDER GRANTING IN PART AND DENYING IN PART MDOC
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT (ECF No. 129)**

In this action, Plaintiff Carl Bennett brings the following claims against the Michigan Department of Corrections (the “MDOC”) and several MDOC employees (collectively, the “MDOC Defendants”): violation of the Eighth and Fourteenth Amendments to the U.S. Constitution (Count I); violation of the federal Americans with Disabilities Act (the “ADA”), 42 U.S.C. § 12101 *et seq.* (Count II); violation of the federal Rehabilitation Act, 29 U.S.C. § 701 *et seq.* (Count III), violation of the Michigan Persons with Disabilities Civil Rights Act (the “PWDCRA”), Mich. Comp. Laws § 37.1101 *et seq.* (Count IV); and negligent infliction of emotional distress (“NIED”) (Count V). (4th Am. Compl. ¶¶ 106–144, ECF No. 121, PageID.1668–1676.) Bennett also seeks declaratory and injunctive relief. (*See id.*, PageID.1677.)

On September 26, 2019, the MDOC Defendants moved for summary judgment on all of Bennett's claims. (*See* MDOC Defs.' Mot. for Summ. J., ECF No. 129.) The Court held an on-the-record video hearing on the MDOC Defendants' motion on August 6, 2020. For the reasons stated on the record, **IT IS HEREBY ORDERED** that:

- The MDOC Defendants' motion is **DENIED** with respect to Bennett's constitutional claims (Count I);
- The MDOC Defendants' motion is **DENIED** with respect to Bennett's ADA claim against the MDOC and **GRANTED** with respect to Bennett's ADA claim against the individual MDOC employees (Count II);
- The MDOC Defendants' motion is **DENIED** with respect to Bennett's Rehabilitation Act claim against the MDOC and **GRANTED** with respect to Bennett's Rehabilitation Act claim against the individual MDOC employees (Count III);
- The MDOC Defendants' motion is **GRANTED** with respect to the entirety of Bennett's PWDCRA claim (Count IV);
- The MDOC Defendants' motion is **GRANTED** with respect to the entirety of Bennett's NIED claim (Count V); and
- The MDOC Defendants' motion is **GRANTED** with respect to Bennett's claim for declaratory and injunctive relief.

In sum, at this point only the following claims regarding the MDOC Defendants remain: Bennett's constitutional claims against the MDOC and the individual MDOC employees, his ADA claim against the MDOC, and his Rehabilitation Act claim against the MDOC. The MDOC Defendants are granted summary judgment on all of Bennett's other claims.

Following the entry of this Order, this matter will be referred to a magistrate judge for a settlement conference. Following the settlement conference, the Court will hold a bench trial (if necessary) with respect to whether Bennett exhausted his administrative remedies. If – following the bench trial – the Court finds that Bennett failed to exhaust his administrative remedies, then the Court will enter judgment in favor of the MDOC and the individual MDOC employees on all of Bennett's remaining claims.

IT IS SO ORDERED.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: August 10, 2020

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on August 10, 2020, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
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