

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ERICKA LEE, PERSONAL  
REPRESENTATIVE OF THE ESTATE OF  
JOSEPH LEE, DECEASED,

Plaintiff,

v.

COUNTY OF GENESEE, ET. AL.,

Defendant.

Case No. 16-13116

SENIOR UNITED STATES DISTRICT  
JUDGE ARTHUR J. TARNOW

MAGISTRATE JUDGE STEPHANIE  
DAWKINS DAVIS

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**ORDER ADOPTING REPORT AND RECOMMENDATION [46]; GRANTING  
PLAINTIFF'S MOTION TO VOLUNTARILY DISMISS DEFENDANT BEXTON [25];  
DENYING AS MOOT DEFENDANT BEXTON'S MOTION FOR JUDGMENT ON THE  
PLEADINGS [18]**

On April 21, 2017, Magistrate Judge Davis issued a Report and Recommendation [46] on Defendant Bexton's Motion for Judgment on the Pleadings as to Counts III and IV filed on October 11, 2016 [18] and Plaintiff's Motion to Voluntarily Dismiss Defendant Bexton [25] filed on November 28, 2016. The Magistrate recommended that counts III and IV against Defendant Bexton be dismissed with prejudice per Plaintiff's Counsel's concession on the

record at the hearing on March 28, 2017 and that Plaintiff's claim for deliberate indifference against Bexton be dismissed without prejudice. Neither party has filed any objection to the Report and Recommendation.

The Court has reviewed the Motion for Judgment on the Pleadings as to Counts III and IV [18], the response filed by Plaintiff [23], and Defendant's reply [24] as well as the Motion to Voluntarily Dismiss Defendant Bexton [25] and Plaintiff's response [27] as well as the Report and Recommendation [47] dismissing Counts III and IV with prejudice and the deliberate indifference claim against Bexton without prejudice. The Report and Recommendation [46] is hereby **ADOPTED** and entered as the findings and conclusions of the Court. Accordingly,

**IT IS ORDERED** that Plaintiff's Motion to Voluntarily Dismiss Defendant Bexton [25] is **GRANTED**.

**IT IS FURTHER ORDERED** that Counts III and IV against Defendant Bexton are **DISMISSED with prejudice** and the deliberate indifference count under the Eighth Amendment against Defendant Bexton is **DISMISSED without prejudice**.

**IT IS FURTHER ORDERED** that Defendant Bexon's Motion for Judgment on the Pleadings as to Counts III and IV [18] is **DENIED as moot.**

**SO ORDERED.**

Dated: May 26, 2017

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

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S Mail addresses disclosed on the Notice of Electronic filing on May 26, 2017.

s/Teresa McGovern  
Case Manager Generalist