

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DAVID HANEY,

Plaintiff,

v.

CORIZON INSURANCE COMPANY, et al.,

Defendants.

Case No. 16-13227

Honorable Nancy G. Edmunds

**ORDER AND OPINION ACCEPTING THE MAGISTRATE JUDGE'S APRIL 16, 2018
REPORT AND RECOMMENDATION**

Currently before the Court is Magistrate Judge Majzoub's April 16, 2018 Report and Recommendation [58]. The Report and Recommendation addresses Defendants Nicki Monroe, Addie Briske, Vicki Jensen, Deborah Swickley, Bridget Ball, and Jack Bellinger (the "MDOC Defendants") motion for summary judgment [52] seeking to dismiss all claims against them. The Report and Recommendation also addresses Defendants Corizon Health, Inc. and Robert Crompton, M.D. (the "Corizon Defendants") motion to dismiss [46]. The Court is fully advised in the premises and has reviewed the record and the pleadings. Neither party has filed objections. "[T]he failure to object to the magistrate judge's report[] releases the Court from its duty to independently review the matter." *Hall v. Rawal*, 09-10933, 2012 WL 3639070, at *1 (E.D.Mich. Aug. 24, 2012) (citation omitted). The Court nevertheless agrees with the magistrate judge's recommendation. The Court therefore ACCEPTS and ADOPTS the magistrate judge's Report and Recommendation [58].

It is further orders that the Corizon Defendants' motion to dismiss [46] is GRANTED IN PART and DENIED IN PART. The Court dismisses Plaintiff's claims under the Americans with Disabilities Act, the First Amendment, the Michigan Constitution, MDOC Policy Directive 03.03.130, and all claims against Corizon Health, Inc. The Court further dismisses the claims contained in grievances ECF-13-01-0134-12e3 and ECF-12-08-2470-12d3 because those claims accrued more than three years prior to the date of Plaintiff's complaint.

It is further ordered that the MDOC Defendants' motion for summary judgment [52] is GRANTED IN PART and DENIED IN PART. The Court denies MDOC Defendants' motion for summary judgment as to Plaintiff's Eighth Amendment claim in order to permit the parties to take discovery. The Court denies MDOC Defendants' motion for summary judgment as to Plaintiff's claims against the MDOC Defendants in their official capacities to the extent that those claims request prospective relief. Finally the Court grants MDOC Defendants' motion and dismisses Plaintiff's claims against MDOC Defendants for failure to exhaust administrative remedies except those raised in the following grievances:

(1) Claims alleged in ECF-2013-08-2127-12d1 may proceed against Defendants Monroe and Jensen

(2) Claims alleged in ECF-2013-07-1768-12f may proceed against Defendant Monroe

(3) Claims alleged in ECF-2013-05-1410-12e3 may proceed against Defendants Jensen, Briske, Russell, Bellinger, and Ball

(4) Claims alleged in ECF-2013-05-1269-12e1 may proceed against Defendants Swickley and Briske

(5) Claims alleged in ECF-2013-04-1170-12e4 may proceed against Defendant Briske

SO ORDERED.

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: May 21, 2018

I hereby certify that a copy of the foregoing document was served upon counsel of record on May 21, 2018, by electronic and/or ordinary mail.

s/Lisa Bartlett
Case Manager