

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TIMOTHY CRANE,

Plaintiff,

v.

ERIC SMITH, et al.,

Defendants.

Case No. 1:18-cv-227

HONORABLE PAUL L. MALONEY

ORDER ADOPTING REPORT AND RECOMMENDATION

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983. Defendants Eric Smith, Patrick Miseta, Aimee Mucha, Kevin Smiley, and Jack Bellinger filed a motion for summary judgment. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation on February 11, 2019, recommending that this Court grant the motion in part and deny the motion in part. The Report and Recommendation was duly served on the parties. No objections have been filed. *See* 28 U.S.C. § 636(b)(1). Therefore,

IT IS HEREBY ORDERED that the Report and Recommendation (ECF No. 45) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the Motion for Summary Judgment (ECF No. 23) is GRANTED IN PART, and Plaintiff's claims against Defendants Eric Smith, Aimee Mucha, and Jack Bellinger are DISMISSED.

IT IS FURTHER ORDERED that this case will proceed against Defendants Patrick Miseta (Count 3) and Kevin Smiley (Count 4) on Plaintiff's claims that Defendants Miseta and

Smiley violated his 8th Amendment rights when they refused to provide him with a sanction break which included adequate time for exercise outdoors.

IT IS FURTHER ORDERED that this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this decision would not be taken in good faith. See *McGore v. Wrigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211-12 (2007).

Dated: March 13, 2019

/s/ Paul L. Maloney
Paul L. Maloney
United States District Judge