

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MARK BENSON #274107,

Plaintiff,

v.

M. FARBER, et al.,

Defendants.

Case No. 1:23-cv-268

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 Farber, Hermann, Jimerson, Pannell, and Streit filed a motion for summary judgment. Defendant Landingham also filed a motion for summary judgment. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation on October 16, 2023, recommending that this Court grant in part and deny without prejudice in part the defendants' motion for summary judgment (ECF No. 24) and grant defendant's motion for summary judgment (ECF No. 38). 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. 42) is APPROVED and ADOPTED as the Opinion of the Court.

**IT IS FURTHER ORDERED** that the Motion for Summary Judgment filed by Defendants Farber, Hermann, Jimerson, Pannell, and Streit (ECF No. 24) is GRANTED IN PART AND DENIED WITHOUT PREJUDICE IN PART. The Motion for Summary Judgment filed by

Defendant Landingham (ECF No. 38) is GRANTED. Plaintiff's Eighth Amendment failure to protect claims against Defendants Hermann, Jimerson, Pannell, and Streit are DISMISSED WITHOUT PREJUDICE. Plaintiff's Eighth Amendment excessive force claim against Defendant Farber continues forward.

Dated: November 14, 2023

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