

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

ARLANDUS M. NOLEN,

Plaintiff,

File No. 2:06-cv-125

v.

HON. ROBERT HOLMES BELL

TIMOTHY LUOMA, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER
ADOPTING THE REPORT AND RECOMMENDATION

This is a prisoner civil rights action filed by Plaintiff Arlandus Nolen pursuant to 42 U.S.C. § 1983. Plaintiff's complaint asserted claims against approximately fifty different prison officials. Before the Court is a Report and Recommendation ("R&R") issued by United States Magistrate Judge Timothy P. Greeley recommending that the Court grant summary judgment in favor of Defendant Tom Lindberg and dismiss the claims against the remaining Defendants in this matter. (Dkt. No. 263.) Plaintiff filed objections to the R&R on January 6, 2010. (Dkt. No. 264.) For the reasons that follow, Plaintiff's objections are denied and the R&R is adopted as the opinion of the Court.

This Court is required to conduct a de novo review with respect to those portions of a R&R to which specific objections are made, and may accept, reject, or modify any or all of the Magistrate Judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ.

P. 72(b). The R&R determined that Defendant Lindberg's motion should be granted because the complaint did not assert any factual allegations against Defendant Lindberg. On de novo review, the Court agrees with that determination. The Court also notes that, in his response to the motion for summary judgment, Defendant did not offer any evidence or affidavits that would suffice to create a genuine issue of material fact. *See* Fed. R. Civ. P. 56(e)(2). The Court will, therefore, grant judgment in Defendant Lindberg's favor.

Finally, the R&R recommended dismissal of the claims against the remaining Defendants for failure to serve. *See* Fed. R. Civ. P. 4(m). The R&R gave Plaintiff notice of the pending dismissal and he has not objected or otherwise responded. The Court will, therefore, dismiss Plaintiff's remaining claims.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's objections to the R&R (Dkt. No. 264) are **DENIED**.

IT IS FURTHER ORDERED that the R&R (Dkt. No. 263), combined with the opinion herein, is **APPROVED** and **ADOPTED** as the opinion of this Court.

IT IS FURTHER ORDERED that Defendant Tom Lindberg's motion for summary judgment (Dkt. No. 249) is **GRANTED**. The Court enters **JUDGMENT** in favor of Tom Lindberg.

IT IS FURTHER ORDERED that Plaintiff's claims against the remaining Defendants in this matter, Defendants Unknown Minirich, Unknown Schnider, D. Velmer,

Jim LaChance, R. Wickstrom, Thomas Recker, Unknown Aho, and Unknown Bouchard, are **DISMISSED** for failure to serve.

The Court hereby **CERTIFIES** that an appeal of this action would not be taken in good faith. 28 U.S.C. § 1915(a)(3).

A judgment will be entered that is consistent with this memorandum opinion and order.

Dated: March 10, 2010

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE