

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

KENNETH COLVIN, JR.,

Plaintiff,

v.

Case No. 2:07-cv-61

HON. R. ALLAN EDGAR

PATRICIA CARUSO, et al.,

Defendants.

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OPINION AND ORDER APPROVING MAGISTRATE JUDGE'S

REPORT AND RECOMMENDATION

The Court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action on May 22, 2008. The Report and Recommendation was duly served on the parties. The Court has received objections from plaintiff. In accordance with 28 U.S.C. § 636(b)(1), the Court has performed *de novo* consideration of those portions of the Report and Recommendation to which objection has been made. The Court now finds the objections to be without merit.

Plaintiff argues that defendant Riley should not be afforded qualified immunity from liability because plaintiff did fill out a Religious Change of Preference form. That is not an issue in this case. It has been acknowledged that a mistake was made. The official records were not changed to reflect a Jewish religious preference change. It is defendant Riley's conduct which triggers qualified immunity, not the conduct of plaintiff. Defendant Riley checked the official records and noted that plaintiff was listed as a Muslim prisoner and not a Jewish prisoner. Plaintiff's assertion that this recording mistake was made by defendant Riley is not established in the record, but is mere

speculation. Defendant Riley never denied plaintiff Koshers meals and the short delay was corrected by prison staff. Contrary to plaintiff's assertions he was never denied meals. Moreover, plaintiff has not established that his right to practice his religious beliefs was violated by defendants.

THEREFORE, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge (Docket #91) is approved and adopted as the opinion of the Court.

Dated: 9/26/08

/s/ R. Allan Edgar
R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE