

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Tatyana Manos, Allison Marshall, and Ronnie
Robert Molina,

Civil No. 18-cv-0427 (PJS/HB)

Plaintiffs,

v.

**ORDER ON REPORT
AND RECOMMENDATION**

Federal Bureau of Prisons; Eric Holder, former Attorney General, in his individual and official capacities; Loretta Lynch, former Attorney General, in her individual and official capacities; Sally Yates, former acting Attorney General, in her individual and official capacities; Jefferson Sessions, former Attorney General, in his individual and official capacities; Matthew Whitaker, acting Attorney General, in his individual and official capacities; Harley G. Lapin, former BOP Director, in his official capacity; Charles E. Samuels, Jr., former BOP Director, in his official capacity; Thomas R. Kane, former Interim BOP Director, in his official capacity; Mark S. Inch, former BOP Director, in his official capacity; Hugh J. Hurwitz, acting BOP Director, in his official capacity; John Doe No. 1, former North Central Regional BOP Director, in his official capacity; John Doe No. 2, former North Central Regional BOP Director, in his official capacity; Jeffrey E. Krueger, North Central Regional BOP Director, in his official capacity; John Doe No. 3, former South Central Regional Director, in his official capacity; John Doe No. 4, former DSCC Director, in his official capacity; Kethleen Kenney, BOP General Counsel, in her official capacity; Scott Fisher, former BOP Warden, in his individual and official capacities; M. Travis Bragg, former BOP

Warden, in his official capacity; Sandy Jett, former BOP Warden, in his individual and official capacities; John Doe No. 5, former acting BOP Warden, in his individual and official capacities; L. LaRiva, former BOP Warden, in his official capacity; John Doe No. 6, former acting BOP Warden, in his individual and official capacities; David Paul, former BOP Warden, in his individual and official capacities; and John and Jane Does 7–15,

Defendants.

The above-entitled matter came before the Court upon the Report and Recommendation of the United States Magistrate Judge. No objections have been filed to the Report and Recommendation in the time period permitted.

Based upon the Report and Recommendation of the Magistrate Judge, and all the files, records and proceedings herein,

IT IS HEREBY ORDERED that:

1. The Report and Recommendation is **ADOPTED**;
2. Defendants' Motion to Dismiss [Doc. No. 77] is **GRANTED IN PART, DENIED IN PART, and DENIED AS MOOT IN PART** as follows:
 - a. The motion is **GRANTED** as to Tatyana Manos's and Allison Marshall's claims against Defendants in their official capacities, and those should claims are **DISMISSED WITH PREJUDICE**;
 - b. The motion is **DENIED** as to Ronnie Molina's official capacity claim challenging the 300-minute monthly telephone call restriction

under the First, Fifth, and Eighth Amendments;

- c. The motion is **GRANTED** as to Ronnie Molina's official capacity claim that that he has been adversely affected by the BOP's administrative remedy process in violation of the APA and the Fifth and Eighth Amendments, and that claim is **DISMISSED WITHOUT PREJUDICE**;
 - d. The motion should is **GRANTED** as to Ronnie Molina's official capacity claim that the lack of an FMC in the western region violates the APA and the Eighth Amendment, and that claim is **DISMISSED WITH PREJUDICE**;
 - e. The motion is **DENIED AS MOOT** as to former Plaintiff Theodore Manos because his claims have been dismissed without prejudice;
and
3. All remaining claims against Defendants in their individual capacities are **DISMISSED WITHOUT PREJUDICE**.

Dated: 2/6/20

s/Patrick J. Schiltz

PATRICK J. SCHILTZ
United States District Judge