

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Antione S. Lee,	:	
Plaintiff	:	Civil Action 2:13-cv-00087
v.	:	Judge Marbley
Brad Eller and Dr. Eddy,	:	Magistrate Judge Abel
Defendants	:	

ORDER

Plaintiff Antione S. Lee, a state prisoner, brings this action alleging that defendants Brad Eller and Dr. Eddy violated his Eighth Amendment rights by failing to provide him with estrogen hormone treatment. This matter is before the Court on plaintiff's February 28, 2013 statement of claim and memorandum in support, which the Court will characterize as objections to Magistrate Judge Abel's January 31, 2013 Initial Screening Report and Recommendation recommending that defendant Eller be dismissed.

Upon *de novo* review in accordance with the provisions of 28 U.S.C. §636(b)(1)(B), the Court **ADOPTS** the Report and Recommendation. (Doc. 5).

Lee is a 34 year old African American transgender male who has been living as a female since the age of 18. He has taken a female hormone medication, estrogen, since the age of 19. He has also received breast implants. Since Lee has been incarcerated at the Belmont Correctional Institution, he has filed a series of complaints and grievances

about mistreatment and discrimination against him because he is an African American transgender inmate. Brad Eller, a medical administrator, is alleged to have shown no concern to Mr. Lee's complaints. Finally, it is alleged that Dr. Eddy, ODRC's Chief Medical Officer, denied Lee hormonal treatment despite that fact that the treatment is medically necessary and he was receiving that treatment before his transfer to the Belmont Correctional Institution. Because he has been denied the treatment, Lee is depressed and has suffered adverse physical side effects.

The Eighth Amendment forbids prison officials from "unnecessarily and wantonly inflicting pain" on an inmate by acting with "deliberate indifference" toward the inmate's serious medical needs. *Estelle v. Gamble*, 429 U.S. 97, 104 (1976). The allegation that Brad Eller, a hospital administrator has refused to issue him hormone treatment or email the Chief Medical Inspector about hormone therapy is insufficient to state a claim that he deliberately subjected plaintiff to cruel and unusual punishment. Mr. Eller is not plaintiff's treating physician and cannot prescribe him estrogen.

Defendant Eller is hereby **DISMISSED**. This action continues with respect to defendant Dr. Eddy.

S/Algenon L. Marbley
Algenon L. Marbley
United States Magistrate Judge

