

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

ERIC EUGENE WRAY,

2:12-CV-00980-PK

Plaintiff,

ORDER

v.

OREGON DEPARTMENT OF
CORRECTIONS, a State of
Oregon public entity; EASTERN
OREGON CORRECTIONAL
INSTITUTION, a State of
Oregon public entity;
MEDICAL and BEHAVIORAL HEALTH
SCIENCES DEPARTMENTS OF E.O.C.I.,
a State of Oregon public
entities; MAX WILLIAMS, Former
Director of Oregon Department
of Corrections; JOYCE DUVAL,
Manager of Behavioral Health
Sciences at E.O.C.I.; RAYMOND
PETERS, Lieutenant at E.O.C.I.,

Defendants.

BROWN, Judge.

Magistrate Judge Paul Papak issued Findings and Recommendation (#85) on May 1, 2013, in which he recommends this Court grant in part and deny in part Defendants' Unenumerated Motion (#66-1) to Dismiss for Failure to Exhaust and grant in part and deny in part Defendants' Motion (#66-2) for Judgment on the Pleadings. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b).

Although Plaintiff filed a document titled "Objections," Plaintiff does not object to the substance of the Findings and Recommendation. Plaintiff instead clarifies the proper name of Defendant in Plaintiff's Sixth and Seventh Claims is the Medical Department rather than the Medical Health Department. Defendants do not object to Plaintiff's clarification, and it is supported by the allegations in Plaintiff's Complaint. The Court, therefore, incorporates the changes in its adoption of the Findings and Recommendation as set out below.

Because no substantive objections to the Magistrate Judge's Findings and Recommendation were filed, this Court is relieved of its obligation to review the record *de novo*. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)(*en banc*). See also *United States v. Bernhardt*, 840 F.2d 1441, 1444 (9th Cir. 1988). Having reviewed the legal principles *de novo*, the Court

does not find any error.

CONCLUSION

The Court **ADOPTS** Magistrate Judge Papak's Findings and Recommendation (#85). Accordingly, the Court:

1. **GRANTS** Defendants' Unenumerated Motion (#66-1) to Dismiss for Failure to Exhaust as to Plaintiff's First through Fourth Claims and **DISMISSES** those claims **with prejudice;**
2. **GRANTS** Defendants' Unenumerated Motion (#66-1) to Dismiss for Failure to Exhaust as to Plaintiff's Sixth Claim and **DISMISSES** that claim **without prejudice;**
3. **GRANTS** Defendants' Unenumerated Motion (#66-1) to Dismiss for Failure to Exhaust as to Plaintiff's Seventh Claim to the extent that claim is alleged against Defendant Medical Department and **DISMISSES** that claim **without prejudice;**
4. **DENIES** Defendants' Unenumerated Motion (#66-1) to Dismiss for Failure to Exhaust as to Plaintiff's Fifth and Seventh Claims to the extent they are alleged against Defendant Behavioral Health Services Department;
5. **DENIES** Defendants' Unenumerated Motion (#66-1) to

Dismiss for Failure to Exhaust as to Plaintiff's Eighth through Tenth Claims;

6. **GRANTS** Defendants' Motion (#66-2) for Judgment on the Pleadings as to Plaintiffs' Seventh Claim to the extent that claim is brought against the individually-named Defendants in their individual capacity and **DISMISSES** that claim **with prejudice**;
7. **GRANTS** Defendants' Motion (#66-2) for Judgment on the Pleadings as to Plaintiffs' Eighth through Tenth Claims and **DISMISSES** those claims **with prejudice**.

Accordingly, this matter proceeds only as to Plaintiff's Fifth and Seventh Claims and only to the extent they are alleged against Defendant Behavioral Health Services Department.

IT IS SO ORDERED.

DATED this 8th day of July, 2013.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge