

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RYAN McCLINTIC : CIVIL ACTION  
 :  
 v. :  
 :  
 :  
 PENNSYLVANIA DEPARTMENT OF :  
 CORRECTIONS, et al. : NO. 12-6642

ORDER

AND NOW, this 12th day of November, 2013, upon consideration of the motion to dismiss by Edgar Martinez, M.D., and Penelope Bratton, M.D. (Docket No. 15), and the motion to dismiss by the Pennsylvania Department of Corrections ("DOC") and its employees (the "Commonwealth defendants") (Docket No. 25); McClintic's responses in opposition to those motions (Docket Nos. 26 & 36); the reply in support of the doctors' motion (Docket No. 27); McClintic's sur-reply in response (Docket No. 31); and telephone conferences held on the record before the Court with McClintic and defendants' counsel on February 6, 2013, and February 27, 2013; for the reasons stated in a memorandum opinion bearing today's date, IT IS HEREBY ORDERED that:

1. The motion to dismiss by Dr. Martinez and Dr. Bratton (Docket No. 15) is GRANTED, and all claims against Dr. Martinez and Dr. Bratton are dismissed.

2. The Commonwealth defendants' motion to dismiss (Docket No. 25) is GRANTED IN PART and DENIED IN PART, as follows:

a. McClintic's claim against the Pennsylvania DOC is dismissed as barred by sovereign immunity; accordingly, the case is dismissed as to the Pennsylvania DOC.

b. All claims against DOC Secretary Wetzel and Corrections Officer Shwenk are dismissed as withdrawn, and the case is dismissed as to defendants Wetzel and Shwenk.

c. McClintic's Due Process claim is dismissed; accordingly, the case is dismissed as to defendant Mary Canino.

d. McClintic's ADA and Eighth Amendment claims are dismissed; therefore the case is dismissed as to defendants Michael Wenerowicz, Charles Fix, R. Grossman, Ms. Jagota, M. Moriello, Donald Whitfield, and Lt. Boone.

e. As to defendants Lt. Radle, Lt. Taylor, Corrections Officer Ronald Quick, and Corrections Officer Fina, all claims are dismissed except McClintic's claim under the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"):

i. The RLUIPA claim is dismissed to the extent that it is brought against Radle, Taylor, Quick, and Fina in their individual capacities, and to the extent that

McClintic seeks any monetary damages or declaratory judgment.

ii. However, the RLUIPA claim remains open to the extent that it is brought against Radle, Taylor, Quick, and Fina in their official capacities, and to the extent that McClintic seeks prospective, injunctive relief for future violations of RLUIPA.

BY THE COURT:

/s/ Mary A. McLaughlin  
MARY A. McLAUGHLIN, J.