

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

**DOROTHY L. KENNEY, as  
Administratrix of the Estate of Patricia  
Ann Pollock,  
  
Plaintiff,**

**CIVIL ACTION**

**v.**

**NO. 13-2590**

**MONTGOMERY COUNTY;  
CORRECTIONAL MEDICAL CARE,  
INC.; MARGARET CARRILLO, M.D.;  
CHRISTINE IRVINE, R.N; MARY  
RHINEHART, R.N.; NURSE JOHN/JANE  
DOE 1; NURSE JOHN/JANE DOE 2;  
NURSE JOHN/JANE DOE 3; and, NURSE  
JOHN/JANE DOE 4,**

**Defendants.**

**ORDER**

**AND NOW**, this 24th day of September, 2013, upon consideration of Motion to Dismiss Plaintiff's Complaint by Defendants Montgomery County, Correctional Medical Care, Inc., Rhinehart and Irvine (Document No. 12, filed June 11, 2013), 12(b)(6) Motion to Dismiss of Defendant, Margaret Carrillo, M.D. (Document No. 13, filed June 17, 2013), Plaintiff's Consolidated Memorandum of Law in Opposition to Defendants' Motion to Dismiss (Document No. 17, filed July 1, 2013), for the reasons set forth in the attached Memorandum dated September 24, 2013, **IT IS ORDERED** as follows:

1. The part of the Motion to Dismiss Plaintiff's Complaint by Defendants Montgomery County, Correctional Medical Care, Inc., Rhinehart and Irvine that seeks dismissal of plaintiff's § 1983 claim against Christine Irvine, R.N. is **GRANTED WITHOUT PREJUDICE** to plaintiff's right to file an amended complaint with respect to that claim within

twenty (20) days of the entry of this Order if warranted by the facts. The Motion is **DENIED** in all other respects;<sup>1</sup>

2. The 12(b)(6) Motion to Dismiss of Defendant, Margaret Carrillo, M.D. is **DENIED**.

**BY THE COURT:**

/s/ Jan E. DuBois

**DuBOIS, JAN E., J.**

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<sup>1</sup> As set forth in the accompanying Memorandum, because Pollock was a pretrial detainee at the time of the alleged misconduct, the Court evaluates her § 1983 claims of denial of medical treatment under the Due Process Clause of the Fourteenth Amendment rather than under the Eighth Amendment of the U.S. Constitution. *See* Compl. ¶¶ 106-07 (asserting § 1983 claims under the Eighth and/or Fourteenth Amendments).