

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

ANASTASIOS (TOMMY)	:	CIVIL ACTION NO. 1:08-CV-0539
KALOMIRIS,	:	
	:	(Judge Conner)
Plaintiff	:	
	:	
v.	:	
	:	
JENNIFER FORD, JENNA	:	
FIorentino, KERRY KNAPP,	:	
JACKIE WENTZEL, ROBERT	:	
CUVO, JR., KARRI DODSON,	:	
WILLIAM KOEHLER, ROBERT	:	
LAUDENSLAGER, RICHARD H.	:	
SALTER, III, MARTHA MILLER,	:	
JOSEPH MILLER, JEFF KNITTER,	:	
ROBIN COSTENBADEN, and	:	
GEORGE WARDEN,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 20th day of November, 2009, upon consideration of the motion (Doc. 78) to stay case management deadlines pending adjudication of defendants’ motion to dismiss, filed by defendants Cuvo and Dodson, and upon further consideration of the report of the magistrate judge (Doc. 75), recommending that the motions (Docs. 58, 60, 63) to dismiss the amended complaint be granted, and recommending that all claims against defendants Knitter, Dodson, Cuvo, Knapp, Wentzel, Koehler, Laudenslager, Salter, and Costenbaden be dismissed, and, following an independent review of the record, it appearing that the complaint in the above-captioned matter alleges malicious prosecution and conspiracy, and that the magistrate judge’s report recommends that all claims against defendants Knitter, Dodson, Cuvo, Knapp, Wentzel, Koehler, Laudenslager, Salter, Costenbaden, Ford, Fiorentino, and Martha and Joseph Miller be

dismissed, and that the conspiracy claim against defendant Warden also be dismissed, and it further appearing that neither party has objected to the magistrate judge's report and recommendation,¹ and that there is no clear error on the face of the record,² see Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (explaining that "failing to timely object to [a report and recommendation] in a civil proceeding may result in forfeiture of *de novo* review at the district court level"), it is hereby ORDERED that:

1. The report of the magistrate judge (Doc. 75) is ADOPTED.
2. The motions (Docs. 58, 60, 63) to dismiss the amended complaint are GRANTED.
3. The motion (Doc. 78) to stay case management deadlines pending adjudication of defendants' motion to dismiss is DENIED as moot.

¹ Objections were due by September 28, 2009. As of the date of this memorandum and order, none have been filed.

² When parties fail to file timely objections to a magistrate judge's report and recommendation, the Federal Magistrates Act does not require a district court to review the report before accepting it. Thomas v. Arn, 474 U.S. 140, 149 (1985). As a matter of good practice, however, the Third Circuit expects courts to "afford some level of review to dispositive legal issues raised by the report." Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987). The advisory committee notes to Rule 72(b) of the Federal Rules of Civil Procedure indicate that "[w]hen no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." FED. R. CIV. P. 72(b), advisory committee notes; see also Henderson, 812 F.2d at 878-79 (stating that "the failure of a party to object to a magistrate's legal conclusions may result in the loss of the right to *de novo* review in the district court"); Tice v. Wilson, 425 F. Supp. 2d 676, 680 (W.D. Pa. 2006) (holding that the court's review is conducted under the "plain error" standard); Cruz v. Chater, 990 F. Supp. 375-78 (M.D. Pa. 1998) (holding that the court's review is limited to ascertaining whether there is "clear error on the face of the record"); Oldrati v. Apfel, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998) (holding that the court will review the report and recommendation for "clear error"). The court has reviewed the magistrate judge's report and recommendation in accordance with this Third Circuit directive.

4. All claims against defendants Knitter, Dodson, Cuvo, Knapp, Wentzel, Koehler, Laudenslager, Salter, Costenbaden, Ford, Fiorentino, and Martha and Joseph Miller are DISMISSED.
5. The conspiracy claim against defendant Warden is DISMISSED.
6. The case is REMANDED to the magistrate judge for further proceedings on the remaining claim against defendant Warden.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge