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in his objections does not cite to any case that refutes this holding or that the facts of this case do not fall within *Ikelionwu*'s holding.

Plaintiff's attack on the magistrate judge's recommended disposition of the medical malpractice claim relies largely on his objections to the medical reports of the prison. In particular, Plaintiff alleges that many of the notations on his medical reports were made by an individual named Factora who, Plaintiff claims, is not a licensed medical professional. Plaintiff further contends that the treatment he did or did not receive worsened his back condition and amounted to negligence.

The magistrate judge correctly cited the requirements that must be established to prevail on a medical malpractice claim: (1) a duty owed by the physician; (2) a breach of that duty; (3) the breach proximately caused the harm; and (4) that damages directly resulted from that harm. *Quinby v. Plumstead Family Practice, Inc.*, 589 Pa. 183 (2006) (other citations omitted). Plaintiff has failed to offer any expert witness testimony to show that the care he was provided breached the duty of care and that the care provided was the proximate cause of a deterioration of his back condition. (Report and Recommendation at pp. 30-32.)

The court will adopt the report and recommendation. An appropriate order will be issued.

s/Sylvia H. Rambo  
United States District Judge

Dated: November 6, 2009.

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

**ELIOT S. SASH,**

**Plaintiff**

**v.**

**UNITED STATES OF AMERICA,**

**Defendant**

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**CIVIL NO. 1:CV-08-1553**

**(Judge Rambo)**

**(Magistrate Judge Blewitt)**

**ORDER**

In accordance with the accompanying memorandum, **IT IS HEREBY ORDERED THAT:**

1) The court adopts the report and recommendation of Magistrate Judge Blewitt.

2) Defendant's motion for summary judgment (doc. 11) is granted as follows:

a) Summary judgment is granted in favor of Defendant and against Plaintiff's as to Plaintiff's medical malpractice claim brought under the Federal Tort Claims Act; and

b) Summary judgment is granted in favor of Defendant and against Plaintiff as to Plaintiff's medical malpractice claim.

3) Defendant's motion to dismiss pursuant to Rule 12(b)(1) (doc. 11) is granted with respect to Plaintiff's claims that he was improperly charged a \$2.00 medical co-pay and that he was overcharged \$2.00 for Passover items.

4) The Clerk of Court shall enter the grant of summary judgment as stated above and close the file.

s/Sylvia H. Rambo  
United States District Judge

Dated: November 6, 2009.