

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

DAWN MARIE BALL,	:	Civil No. 1:09-cv-846
Plaintiff	:	
	:	(Chief Judge Kane)
v.	:	
	:	(Magistrate Judge Carlson)
SUPT. LAMAS, <u>et al.</u>,	:	
Defendants	:	

ORDER

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

Currently pending before the Court is a Report and Recommendation issued by Magistrate Judge Martin Carlson in which he recommends that the Court dismiss Plaintiff Dawn Marie Ball's amended complaint. (Doc. No. 60.) Plaintiff has filed objections to the Report and Recommendation in which she argues that Judge Carlson is biased and that she attempted to file amended complaints but that the Court lost those complaints. (Doc. No. 70.) Regarding allegations of Judge Carlson's bias, the Court notes that Plaintiff has raised these complaints in the twenty-two cases she currently has pending before Judge Carlson and this Court. The Court has reviewed her allegations closely in each case and found those allegations to be totally without merit. Second, the Court notes that Judge Carlson's Report and Recommendation is solely focused on the Amended Complaint that Plaintiff filed on December 2, 2011. As such, whether the Court lost any Amended Complaints filed between January 21, 2010, and December 2, 2011, is irrelevant, as Judge Carlson considered the most recent Amended Complaint alleged to have been filed. Having disposed of the objections raised by Plaintiff, the Court has conducted a de novo review of Judge Carlson's well-reasoned Report and Recommendation and has found no error therein.

ACCORDINGLY, on this 15th day of March 2012, **IT IS HEREBY ORDERED**

THAT:

1. Plaintiff's motion for leave to amend (Doc. No. 50) is **GRANTED**;
2. Plaintiff's motion for leave to proceed in forma pauperis (Doc. No. 53) is **GRANTED**;
3. The Report and Recommendation (Doc. No. 60) is **ADOPTED**;
4. The Eighth Amendment claims of assault by prison staff, both physical and sexual, are **DISMISSED WITHOUT PREJUDICE** to Plaintiff endeavoring to cure the defects outlined in Judge Carlson's Report and Recommendation on or before April 2, 2012; if Plaintiff fails to file an amended complaint on or before that date the Clerk of Court will be directed to close the case;
5. All other claims in Plaintiff's Amended Complaint are **DISMISSED WITH PREJUDICE**;
6. If Plaintiff files an amended complaint the matter will be referred back to Judge Carlson for pre-trial management.

S/ Yvette Kane
Yvette Kane, Chief Judge
United States District Court
Middle District of Pennsylvania