

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

CORLIVEETHO McMILLAN,	:	CIVIL ACTION NO. 1:12-CV-1707
Plaintiff	:	
	:	(Judge Conner)
v.	:	
	:	
JEROME WALSH, et al.,	:	
Defendants	:	

ORDER

AND NOW, this 17th day of December, 2012, upon consideration of the Report and Recommendation of Magistrate Judge Martin C. Carlson (Doc. 11) recommending that plaintiff's motion for leave to proceed *in forma pauperis* (Doc. 7) be granted, and that the following claims and parties be dismissed or dropped from plaintiff's complaint (Doc. 1): (1) supervisory liability and failure to investigate claims against Defendants Walsh, Brittin, Moiser, Demming, Tera, Keller, Buck, Detrett, Josewicz, Dingler, Judge, Wenerowicz, Hoover and Papalinos, (2) all claims based solely upon allegations of verbal abuse, (3) all claims arising out of events which are alleged to have occurred prior to August 27, 2010, and (4) all claims and parties involving conduct at SCI Graterford, including all claims against Defendants Wenerowicz, Drissel and Van Cliff, and, following an independent review of the record, noting that plaintiff filed objections¹ to

¹ Where objections to a magistrate judge's report and recommendation are filed, the court must perform a *de novo* review of the contested portions of the report. Supinski v. United Parcel Serv., Civ. A. No. 06-0793, 2009 WL 113796, at *3 (M.D. Pa. Jan. 16, 2009) (citing Sample v. Diecks, 885 F.2d 1099, 1106 n. 3 (3d Cir. 1989); 28 U.S.C. § 636(b)(1)(c)). "In this regard, Local Rule of Court 72.3 requires 'written objections which . . . specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for those objections.'" Id. (citing Shields v. Astrue, Civ. A. No. 07-417, 2008 WL 4186951, at *6 (M.D. Pa. Sept. 8, 2008)).

the report on November 30, 2012 (Doc. 16), and the court finding Judge Carlson's analysis to be thorough and well-reasoned, and the court finding plaintiff's objections to be without merit and squarely addressed by Judge Carlson's report (Doc. 11), it is hereby ORDERED that:

1. The Report and Recommendation (Doc. 11) of Magistrate Judge Carlson are ADOPTED.
2. Plaintiff's motion for leave to proceed *in forma pauperis* (Doc. 7) is GRANTED.
3. The following claims and parties are DISMISSED or DROPPED from this action:
 - a. Plaintiff's supervisory liability and failure to investigate claims against Defendants Walsh, Brittin, Moiser, Demming, Tera, Keller, Buck, Detrett, Josewicz, Dingler, Judge, Wenerowicz, Hoover and Papalinous;
 - b. All claims based solely upon allegations of verbal abuse;
 - c. All claims arising out of events which are alleged to have occurred prior to August 27, 2010; and
 - d. All claims and parties involving conduct at SCI Graterford, including all claims against Defendants Wenerowicz, Drissel and Van Cliff,
4. The claims set forth above (3a.-d.) are DISMISSED without prejudice. Plaintiff is granted leave to file an amended complaint within twenty (20) days of the date of this order, which must address the deficiencies noted in Judge Carlson's Report and Recommendation. Failure to file an amended complaint in a timely fashion shall be deemed an abandonment of these claims and they shall be dismissed with prejudice.
5. Plaintiff's motion to stay (Doc. 17) is DENIED.

6. Plaintiff's motion for temporary restraining order (Doc. 18) is DENIED.
7. The instant action is REMANDED to the magistrate judge for further proceedings.

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