

UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

REUBEN MCDOWELL,	:	
	:	
Plaintiff,	:	
	:	CIVIL NO. 1:15-CV-487
v.	:	
	:	
KEVIN A. DEPARLOS, <i>et al.</i> ,	:	
	:	
Defendants.	:	

ORDER

AND NOW, this 27th day of March, 2017, upon consideration of Magistrate Judge Saporito's Report and Recommendation (Doc. 72) that Defendants' motions to dismiss (Docs. 51 & 67) Plaintiff's amended complaint (Doc. 46) be GRANTED in part and DENIED in part, and, upon independent review of the record, and noting that Plaintiff has already been granted an opportunity to amend his complaint and that no objections have been filed to the Report and Recommendation,¹ and the Court finding Judge Saporito's analysis to be thorough and well-reasoned, IT IS ORDERED that:

- (1) The Report and Recommendation (Doc. 72) is ADOPTED in full;
- (2) Defendants' motions to dismiss (Doc. 51; Doc. 67) the amended complaint are GRANTED in part and DENIED in part;

¹ We note that we do not construe Plaintiff's March 6, 2017 letter (Doc. 73) to defense counsel to constitute objections to the Report and Recommendation, as the letter merely requests that Plaintiff and counsel meet regarding discovery.

- (3) Plaintiff's requests for declaratory or injunctive relief are *sua sponte* DISMISSED as MOOT;
- (4) Plaintiff's claims against Warden Deparlos, Corrections Officers Stroble and Johnson, Sergeant White, and Lieutenant Rogers are DISMISSED WITH PREJUDICE for failure to state a claim;
- (5) Plaintiff's Fourteenth Amendment due process claims against Deputy Warden Shoemaker, Lieutenant Entz, and Counselor Barnes, concerning the denial of an impartial disciplinary hearing, are DISMISSED WITH PREJUDICE for failure to state a claim;
- (6) Plaintiff's Fourteenth Amendment due process claims concerning Special Management Unit (SMU) cell conditions are DISMISSED WITH PREJUDICE for failure to state a claim;
- (7) Plaintiff's Fourteenth Amendment due process claims concerning the denial of the assistance of a staff representative in preparing a defense to disciplinary charges, and the failure to produce investigatory reports for review by that staff representative, are the only claims permitted to proceed;
- (8) This matter is remanded to Magistrate Judge Saporito for further proceedings.

/s/ William W. Caldwell
William W. Caldwell
United States District Judge