

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

GABRIEL ROSA-DIAZ and MASON : Civil No. 1:16-cv-2303
SWANSON, :

Plaintiff, :

v. :

LAUREL HARRY et al., :

Defendant. :

Judge Sylvia H. Rambo

MEMORANDUM

The background of this order is as follows: On November 14, 2016, Plaintiff Rosa-Diaz (“Diaz”) filed a civil rights complaint on behalf of himself and another inmate, Mason Swanson, setting forth claims against state officials related to conditions of confinement, medical indifference, retaliation, discrimination, and failure to act on his grievances. Diaz named approximately twenty defendants including prison officials and Department of Corrections officials. The complaint was 37 pages long and included 208 paragraphs.

The magistrate judge examined the complaint pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and Federal Rule of Civil Procedure 8, as well as with the jurisprudence set forth in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007) and *Ashcroft v. Iqbal*, -- U.S. --, 129 S.Ct. 1937 (2009).

The report and recommendation filed by the magistrate judge recommends dismissal of the complaint as to Defendants Zobitne, Moore, Heist,

Harry, Woodside and Wetzel without prejudice to file an amended complaint. On November 28, 2016, Diaz filed a motion that his case be put on temporary hold. By order dated January 10, 2017, Diaz was granted leave to file objections to the report and recommendation by March 13, 2017. On January 27, 2017, Diaz filed a motion to file an amended complaint along with the amended complaint. His amended complaint is 31 pages long with 182 paragraphs excluding the paragraphs related to the request for relief.

In light of the fact that the magistrate judge recommended that Diaz be granted the opportunity to file an amended complaint, he shall be permitted to do so, subject to a review of the complaint by the magistrate judge as to the requirements set forth in *Twombly*, *Iqbal* and Federal Rule of Procedure 8.

An appropriate order will issue.

s/Sylvia H. Rambo
SYLVIA H. RAMBO
United States District Judge

Dated: January 30, 2017