UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

WINFRED TRAVIS,
Administratrix of the Estate of
Wilfred Travis, Deceased

Plaintiff,

v.

T.R. SNIEZEK, WARDEN
FCI Schuylkill, et al.,

Defendants.

CIVIL ACTION NO. 3:CV-10-2653

(Judge Kosik)

MEMORANDUM AND ORDER

AND NOW, THIS 22 DAY OF JUNE, 2012, IT APPEARING TO THE COURT THAT:

(1) Plaintiff, Winfred Travis, Administratrix of the Estate of Wilfred Travis, deceased, through counsel, filed the instant action on December 28, 2010, based on incidents which occurred while the decedent was confined at the Federal Correctional Institution in Schuylkill, Minersville, Pennsylvania. Wilfred Travis died on October 3, 2009 of colorectal cancer;

(2) The action was assigned to Magistrate Judge Thomas M. Blewitt for Report and Recommendation;

(3) On May 8, 2012, the Magistrate Judge issued a very thorough Report and Recommendation (Doc. 39) wherein he recommended that the plaintiff's complaint be dismissed as to several defendants and as to several claims; that judgment be entered in favor of Defendant Steffen and against Plaintiff; and, that the case be closed;

(4) Specifically, the Magistrate Judge found that Defendants Sniezek, Hendershot, Falzine, Hubble and Zabala were not properly served and should be dismissed without prejudice; that the defendant Federal Bureau of Prisons (BOP) is not a proper defendant; that Plaintiff's negligence claims under the Federal Tort Claims Act (FTCA) are not exhausted; that Defendant United States must be

dismissed; that dismissal is appropriate for defendants on the Americans With Disabilities Act (ADA) claim; and that Defendant Steffen is entitled to summary judgment on the Eighth Amendment claims in that he lacked personal involvement;

(5) Petitioner has failed to file timely objections to the Magistrate Judge's Report and Recommendation;

AND, IT FURTHER APPEARING THAT:

(6) If no objections are filed to a Magistrate Judge's Report and Recommendation, the plaintiff is not statutorily entitled to a de novo review of his claims. 28 U.S.C.A.§636(b)(1)(C); Thomas v. Arn, 474 U.S. 140, 150-53 (1985). Nonetheless, the usual practice of the district court is to give "reasoned consideration" to a magistrate judge's report prior to adopting it. Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987);

(7) We have considered the Magistrate Judge's Report and we concur with his recommendations. Defendants Sneizek, Hendershot, Falzini, Hubble, and Zabala will be dismissed from this action without prejudice; Plaintiff's claims for damages with respect to his constitutional claims under *Bivens v. Six Unknown Named Agents of Fed. Bur. of Narcotics*, 403 U.S. 388 (1971), that are asserted against Defendants in their official capacities, will be dismissed; Plaintiff's claims under 42 U.S.C. § 1983 and the Fifth Amendment will be dismissed; Plaintiff's negligence claims, including Plaintiff's claims under the FTCA and state law negligence claims, will be dismissed; Plaintiff's claims under the ADA will be dismissed; Plaintiff's claims against the Defendants, BOP and United States, will be dismissed; and, judgment will be entered in favor of Defendant Steffan and against the Plaintiff.

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

(1) The Report and Recommendation of Magistrate Judge Thomas M. Blewitt dated May 8, 2012 (Doc. 39) is **ADOPTED**;

(2) Defendants Sneizek, Hendershot, Falzini, Hubble and Zabala are dismissed from this action without prejudice; Plaintiff's claims for damages with

respect to his constitutional claims under *Bivens v. Six Unknown Named Agents of Fed. Bur. of Narcotics*, 403 U.S. 388 (1971) asserted against Defendants in their official capacities are dismissed; Plaintiff's claims under 42 U.S.C. § 1983 and the Fifth Amendment are dismissed; Plaintiff's negligence claims, including Plaintiff's claims under the FTCA and state law negligence claims, are dismissed; Plaintiff's claims under the ADA are dismissed; Plaintiff's claims against the Defendants, BOP and United States, are dismissed; and, Judgment is hereby entered in favor of Defendant Steffan and against the Plaintiff; and

(3) The Clerk of Court is directed to **CLOSE** this case and to forward a copy of this Memorandum and Order to the Magistrate Judge.

Edwin M. Kosik
United States District Judge

Clerks June 20th 2012.

Please provide me with a copy of these documents

1- Njos v. Bledsoe 3:CV-12-00478/TMBs recommendation and report.

2- Docket sheet for Njos v. Argueta 3:CV-12-01038-EMK-TMB

3- $22.41 packets x3

Thank you

Scott Njos

Please comply with requests.